

To: pam@okgop.com[pam@okgop.com]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Wed 4/26/2017 12:16:08 AM
Subject: RE: gala invite [WARNING: SPF validation failed]
HOW TO REVIEW POLITICAL INVITATIONS.DOC

Pam, the last page of the attachment lays out specifically and further what we will need for this event.

From: Jackson, Ryan
Sent: Tuesday, April 25, 2017 7:50 PM
To: 'pam@okgop.com' <pam@okgop.com>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: gala invite [WARNING: SPF validation failed]

No, this is not consistent with ethics rules.

He may only attend the event and cannot raise money for the party nor can invitations for the event include solicitations for money. I've cc'd EPA's senior ethics counsel who can discuss what can appear but the Party must withdraw publicly the previous information and invitations.

- 1) The Administrator cannot, in his official capacity, attend the event. He can go in his personal capacity, as E. Scott Pruitt, former AG of Oklahoma, but not as the EPA Administrator. The campaign cannot refer to him by his EPA title (though they can call him the Honorable Scott Pruitt), and they can't use his name in connection with any fundraising or promotion.
- 2) EPA has to review the flyers.
- 3) He can speak about the candidate and urge support, but he absolutely cannot ask people to give money to the campaign.
- 4) The security detail can still go with him (they protect him 24/7, no matter what), but EPA cannot pay for the Administrator's travel expenses. Instead, the campaign must pay which I appreciate the party offering to do prior to the invitation being issued.

I'm available at Ex. 6 - Personal Privacy and Justina will be available tomorrow to square this away.

From: Pam Pollard [<mailto:pam@okgop.com>]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: gala invite [WARNING: SPF validation failed]

Can we use this and in the text body say Scott Pruitt will be the keynote speaker and will receive the Ronald Reagan Leadership Award?

Pam Pollard, Chairman

Oklahoma Republican Party

405.420.8154

Sent from my iphone



Annual OKLAHOMA REPUBLICAN PARTY *Gala*

CELEBRATE OKLAHOMA!

FRIDAY, MAY 5TH, 2017
VIP RECEPTION 6 PM
DINNER 7 PM

FIRST MOORE BAPTIST CHURCH
301 NE 27TH ST, MOORE, OK 73160

VIP RECEPTION \$50 | DINNER \$100

SPONSORSHIP LEVELS

GOLD - \$5,000

SILVER - \$3,000

BRONZE - \$2,000

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 USC §§ 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. “Political activity” is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees *can* and *cannot* do.

Who is a PAS employee?

EPA has 14 PAS employees, who are **P**residential **A**ppointees confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

- (1) Don’t use your official authority or influence to interfere with or affect an election. Don’t use your official title while participating in political activity and don’t use your authority to coerce anyone to participate in political activity. Importantly, you can’t solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;
- (2) Don’t fundraise, even in your private capacity. You can’t even let your name be used as the host of fundraiser. You can’t solicit political contributions in a speech or address at a fundraiser, and you can’t let your official title be used in connection with a fundraiser. You also can’t solicit, accept or receive volunteer services from an EPA subordinate;
- (3) Don’t run for partisan public office (without first talking to your ethics official and telling us where you live. There are a few exceptions for certain localities); and
- (4) Don’t solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS employees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA’s fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The “Secret Service” exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as he is providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any “extra” voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

- Clues: is the invitation from a campaign committee to elect someone? Is the event called a “rally” or a “fundraiser” or does it use words like “get out the vote?”

2) The Scheduling Staff should **send a copy of the invitation to OGC-Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

\$ send the requestor the EPA’s “ground rules” about political events

\$ ask questions about the event:

- who is the host of the event?
- are there any co-sponsors?
- where will the event be held?
- who are the anticipated invitees to the event?
- how many people are expected to attend?
- what is the anticipated role of the EPA PAS at the event?

\$ identify a contact person on the Scheduling Staff to work with OGC

\$ identify a contact person on the requestor’s staff to talk to OGC

\$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

- An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also should not say that the candidate is endorsed by the US EPA.

- An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm's offices.
- OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA's ground rules. The Scheduling Staff should now:

- \$ obtain a list of all of the invitees and send that list to OGC
- \$ obtain copies of all of the invitations and send to OGC for review of the format
- \$ talk to the PAS travel coordinator and OGC about payment for any political travel
- \$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches
- \$ provide the PAS with the EPA's ground rules as part of her/his briefing package



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.
- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.
- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.
- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

To: Tasha Duncan[Tasha.Duncan@okfb.org]; Hupp, Millan[hupp.millan@epa.gov]
From: Hupp, Sydney
Sent: Wed 5/3/2017 6:06:18 PM
Subject: RE: Delivery of Administrator Pruitt's Award

Hey Tasha! Would you mail it to **Ex. 6 - Personal Privacy** please?

Thank you for your flexibility and patience on this!

Sydney Hupp

Executive Scheduler

Office of the Adminsitrator

202.816.1659 (c)

From: Tasha Duncan [mailto:Tasha.Duncan@okfb.org]
Sent: Tuesday, May 2, 2017 3:01 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award
Importance: High

If one or both of you ladies happens to have Administrator Pruitt's home address (here in OK) handy, I think we may just end up mailing his award!

Tasha Duncan | Oklahoma Farm Bureau | 2501 N. Stiles Ave., OKC, OK 73105

From: Hupp, Sydney [mailto:hupp.sydney@epa.gov]
Sent: Thursday, April 20, 2017 3:05 PM
To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award

He is actually going to be in town next weekend now but I am unsure of the schedule at this moment. I can tell you he is going to be at the OKGOP Gala Friday night if anyone from your team might be around. Might have to touch base with you as the day draws closer?

Thanks!

Sydney Hupp

Office of the Administrator- Scheduling

202.816.1659

From: Tasha Duncan [<mailto:Tasha.Duncan@okfb.org>]

Sent: Wednesday, April 19, 2017 2:37 PM

To: Hupp, Sydney <hupp.sydney@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>

Subject: RE: Delivery of Administrator Pruitt's Award

Correct! It's exact wording is "Oklahoma Farm Bureau 2016 Champion – Attorney General Scott Pruitt"

Tasha Duncan | Oklahoma Farm Bureau | 2501 N. Stiles Ave., OKC, OK 73105

From: Hupp, Sydney [<mailto:hupp.sydney@epa.gov>]

Sent: Wednesday, April 19, 2017 1:35 PM

To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>

Subject: RE: Delivery of Administrator Pruitt's Award

Let me think on that. Double checking that the award doesn't say "EPA administrator"?

Thanks!!

Sydney Hupp

Office of the Administrator- Scheduling

202.816.1659

From: Tasha Duncan [<mailto:Tasha.Duncan@okfb.org>]
Sent: Tuesday, April 18, 2017 3:38 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award

Sydney,

We were thinking if he were in town (Tulsa) sometime soon, we could simply deliver it to him personally – whether that be to his home or a quick meet-up for lunch! Just let me know what might work for Administrator Pruitt!

Thanks,

Tasha Duncan | Oklahoma Farm Bureau | 2501 N. Stiles Ave., OKC, OK 73105

From: Hupp, Sydney [<mailto:hupp.sydney@epa.gov>]
Sent: Tuesday, April 18, 2017 10:25 AM
To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award

Looks like he can accept it! What were you thinking in terms of giving him the award?

Sydney Hupp

Office of the Administrator- Scheduling

202.816.1659

From: Tasha Duncan [<mailto:Tasha.Duncan@okfb.org>]

Sent: Monday, April 17, 2017 2:39 PM

To: Hupp, Sydney <hupp.sydney@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>

Subject: RE: Delivery of Administrator Pruitt's Award

Sydney,

Sure thing – understandable! It is actually an award for his service last year here in Oklahoma as Attorney General! It's called a Champion Award, and a handful of them are given from Oklahoma Farm Bureau every year... does this sound like something he would be able to accept? Please let me know, at your convenience!

Thank you,

Tasha Duncan | Oklahoma Farm Bureau | 2501 N. Stiles Ave., OKC, OK 73105

From: Hupp, Sydney [<mailto:hupp.sydney@epa.gov>]

Sent: Monday, April 17, 2017 1:24 PM

To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>

Subject: RE: Delivery of Administrator Pruitt's Award

Good morning! Hope you had a great Easter! Would you mind if we ask what exactly the award

is? Sounds silly but we have lots of strict federal ethics rules on him accepting gifts and awards so we would have to get it cleared on our end. I'm sorry, I know that is cumbersome!!

Thank you!

Sydney Hupp

Office of the Administrator- Scheduling

202.816.1659

From: Tasha Duncan [<mailto:Tasha.Duncan@okfb.org>]

Sent: Monday, April 17, 2017 12:52 PM

To: Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>

Subject: Delivery of Administrator Pruitt's Award

Good morning ladies,

We have an award for Administrator Pruitt, so we were wanting to know if he plans on being home (in Tulsa) any time soon – where we would be able to personally deliver it to him! Please let me know, at your convenience!

Thank you,

Tasha Duncan
Public Policy Coordinator and Executive Assistant
Oklahoma Farm Bureau
2501 North Stiles Avenue
Oklahoma City, Oklahoma 73105

To: Hupp, Sydney[hupp.sydney@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]
From: Tasha Duncan
Sent: Mon 4/24/2017 2:26:27 PM
Subject: RE: Delivery of Administrator Pruitt's Award

Good morning,

I think we may just end up mailing Administrator Pruitt's award to his home... do you happen to have his home address handy?

Thank you,

Tasha Duncan | Oklahoma Farm Bureau | 2501 N. Stiles Ave., OKC, OK 73105

From: Hupp, Sydney [mailto:hupp.sydney@epa.gov]
Sent: Thursday, April 20, 2017 3:05 PM
To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award

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From: Hupp, Sydney [<mailto:hupp.sydney@epa.gov>]
Sent: Tuesday, April 18, 2017 10:25 AM
To: Tasha Duncan <Tasha.Duncan@okfb.org>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Delivery of Administrator Pruitt's Award

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To: Hupp, Millan <hupp.millan@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>

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From: Tasha Duncan
Sent: Tue 5/2/2017 7:01:17 PM
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Tasha Duncan
Public Policy Coordinator and Executive Assistant
Oklahoma Farm Bureau
2501 North Stiles Avenue
Oklahoma City, Oklahoma 73105

To: amarrone@osc.gov[amarrone@osc.gov]; Hamrick, Erica[EHamrick@osc.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 4/26/2017 9:45:50 PM
Subject: E. Scott Pruitt will not participate in the Oklahoma GOP event on 5/5/17
HOW TO REVIEW POLITICAL INVITATIONS.doc

Dear Ana and Erica,

Deliberative Process Privilege/Ex. 5

I am writing to inform you that the EPA Chief of Staff, Ryan Jackson, has confirmed that Scott Pruitt will not be attending this event on May 5, 2017.

I have copied both Mr. Jackson as well as Kevin Minoli, our Acting General Counsel and Designated Agency Ethics Official, for their information. Again, thank you for your attention to this matter.

With kind regards,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Tuesday, April 18, 2017 3:47 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Hi Sarah,

Deliberative Process Privilege/Ex. 5

For

example, as a federal employee, Mr. Pruitt cannot ever engage in any fundraising for any political party or group, which includes how the organization refers to him in its publicity material if indeed he agrees to do this event. In addition, there are restrictions with regard to whether they can include his EPA title and position in connection with partisan political activity, and the organization will have to pay for his travel expenses.

Deliberative Process Privilege/Ex. 5

Deliberative Process Privilege/Ex. 5

Previously, OGC/ethics

developed the attached guidance to assist the immediate office in assessing political invitations.

Deliberative Process Privilege/Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Monday, April 17, 2017 10:28 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>
Subject: Fwd: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Kevin, this was the request I mentioned.

Justina, has this come across your desk yet?

Deliberative Process Privilege/Ex. 5

Deliberative Process Privilege/Ex. 5

Thank you!

Sent from my iPhone

Begin forwarded message:

From: "Hupp, Sydney" <hupp.sydney@epa.gov>
Date: April 17, 2017 at 9:24:49 AM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

I have Sarah checking out the ethics of this.

Sydney Hupp

Office of the Administrator- Scheduling

202.816.1659

From: Jackson, Ryan
Sent: Saturday, April 15, 2017 7:05 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Subject: FW: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

From: Pollard, Pam [<mailto:pam@okgop.com>]
Sent: Tuesday, April 11, 2017 11:52 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Ryan,

Congratulations on your new job as COS for Administrator Scott Pruitt! Our nation truly is in a better place with you two at the EPA.

I would like to request Admin Pruitt to be our keynote speaker at our largest fundraiser of the year, The State Convention's Gala Dinner on May 5th, 2017 at the FirstMoore Baptist (301 NE 27th St, Moore, OK 73160).

Reception begins at 6 p.m. where Admin. Pruitt would be the guest of honor with the dinner at 7 p.m. when he would give the keynote address around 7:45 p.m.

The theme for the weekend is "Celebrate Oklahoma".

The Republican Party is proud to have voted for the Republican nominee for President for the 4th consecutive election which led to Donald J. Trump becoming the 45th President of the United States. We celebrate our 94% win record on the ballot in 2016 where the state democrats did not win a single race on the ballot.

But, the greatest celebration of all is our own Scott Pruitt and we would love to honor him for his achievements!

We are not only celebrating political victories, but we will have a special program on Saturday highlighting the Governor's Oklahoma Fosters Program asking our delegates to become more involved in the foster care program.

The audience will consist of approximately 500 OKGOP supporters and donors.

Press attendance will be subject to your office's preference.

I look forward to hearing from your office on Admin. Pruitt's availability.

--

Pam Pollard, Chairman

Oklahoma Republican Party

Ex. 6 - Personal Privacy

pam@okgop.com

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 USC §§ 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. “Political activity” is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees *can* and *cannot* do.

Who is a PAS employee?

EPA has 14 PAS employees, who are **P**residential **A**ppointees confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

- (1) Don’t use your official authority or influence to interfere with or affect an election. Don’t use your official title while participating in political activity and don’t use your authority to coerce anyone to participate in political activity. Importantly, you can’t solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;
- (2) Don’t fundraise, even in your private capacity. You can’t even let your name be used as the host of fundraiser. You can’t solicit political contributions in a speech or address at a fundraiser, and you can’t let your official title be used in connection with a fundraiser. You also can’t solicit, accept or receive volunteer services from an EPA subordinate;
- (3) Don’t run for partisan public office (without first talking to your ethics official and telling us where you live. There are a few exceptions for certain localities); and
- (4) Don’t solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS employees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA’s fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The “Secret Service” exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as he is providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any “extra” voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

- Clues: is the invitation from a campaign committee to elect someone? Is the event called a “rally” or a “fundraiser” or does it use words like “get out the vote?”

2) The Scheduling Staff should **send a copy of the invitation to OGC-Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

\$ send the requestor the EPA’s “ground rules” about political events

\$ ask questions about the event:

- who is the host of the event?
- are there any co-sponsors?
- where will the event be held?
- who are the anticipated invitees to the event?
- how many people are expected to attend?
- what is the anticipated role of the EPA PAS at the event?

\$ identify a contact person on the Scheduling Staff to work with OGC

\$ identify a contact person on the requestor’s staff to talk to OGC

\$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

- An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also should not say that the candidate is endorsed by the US EPA.

- An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm's offices.
- OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA's ground rules. The Scheduling Staff should now:

- \$ obtain a list of all of the invitees and send that list to OGC
- \$ obtain copies of all of the invitations and send to OGC for review of the format
- \$ talk to the PAS travel coordinator and OGC about payment for any political travel
- \$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches
- \$ provide the PAS with the EPA's ground rules as part of her/his briefing package



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.
- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.
- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.
- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Tue 4/25/2017 9:13:05 PM
Subject: RE: Politico: Pruitt to headline Oklahoma GOP gala, 4/24/17

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan
Sent: Monday, April 24, 2017 1:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Politico: Pruitt to headline Oklahoma GOP gala, 4/24/17

I'm fixing this.

Ryan Jackson

Chief of Staff

U.S. EPA

Personal Email/Ex. 6

Begin forwarded message:

From: "So, Katherine" <so.katherine@epa.gov>
Date: April 24, 2017 at 12:07:39 PM CDT
To: "McGonagle, Kevin" <mcgonagle.kevin@epa.gov>, "Jefferson, Gayle" <Jefferson.Gayle@epa.gov>, "McCabe, Catherine" <McCabe.Catherine@epa.gov>, "Reeder, John" <Reeder.John@epa.gov>, "Flynn, Mike" <Flynn.Mike@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Slotkin, Ron" <slotkin.ron@epa.gov>, "Sowell, Sarah" <Sowell.Sarah@epa.gov>, "Hart, Daniel" <Hart.Daniel@epa.gov>, "Orquina, Jessica" <Orquina.Jessica@epa.gov>, "Benton, Donald" <benton.donald@epa.gov>, "Bangerter, Layne" <bangerter.layne@epa.gov>, "Davis, Patrick" <davis.patrick@epa.gov>, "Ericksen, Doug" <ericksen.doug@epa.gov>, "Konkus, John" <konkus.john@epa.gov>, "Greaves, Holly" <greaves.holly@epa.gov>, "Kreutzer, David" <kreutzer.david@epa.gov>, "Munoz, Charles" <munoz.charles@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Sugiyama, George" <sugiyama.george@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Valentine, Julia" <Valentine.Julia@epa.gov>, "Wilcox, Jahan" <wilcox.jahan@epa.gov>, "Freire, JP" <Freire.JP@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>, "Graham, Amy" <graham.amy@epa.gov>, "MacKinnon, Kathleen" <MacKinnon.Kathleen@epa.gov>, "Dibble, Christine" <Dibble.Christine@epa.gov>, "Younes, Lina" <Younes.Lina@epa.gov>, AO OPA Media Relations <AO_OPA_Media_Relations@epa.gov>, "Brennan, Thomas" <Brennan.Thomas@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>, "Ford, Hayley" <ford.hayley@epa.gov>, "Milbourn, Cathy" <Milbourn.Cathy@epa.gov>
Cc: "So, Katherine" <so.katherine@epa.gov>
Subject: Politico: Pruitt to headline Oklahoma GOP gala, 4/24/17

Politico

<https://www.politicopro.com/energy/whiteboard/2017/04/pruitt-to-headline-oklahoma-gop-gala-086639>

Pruitt to headline Oklahoma GOP gala

By Alex Guillen 4/24/17, 10:52AM

EPA Administrator Scott Pruitt will headline the Oklahoma Republican Party's annual gala next week, according to an [event invitation](#).

"You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!" the invitation says.

It notes that Pruitt in just a few months has already "overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"

Pruitt was previously Oklahoma's attorney general. The event takes place on May 5 in Moore, Okla.

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Hupp, Sydney[hupp.sydney@epa.gov]; Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Tue 4/18/2017 7:47:20 PM
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]
HOW TO REVIEW POLITICAL INVITATIONS.doc

Hi Sarah,

Ex. 5 - Deliberative Process

For

example, as a federal employee, Mr. Pruitt cannot ever engage in any fundraising for any political party or group, which includes how the organization refers to him in its publicity material if indeed he agrees to do this event. In addition, there are restrictions with regard to whether they can include his EPA title and position in connection with partisan political activity, and the organization will have to pay for his travel expenses.

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Monday, April 17, 2017 10:28 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>
Subject: Fwd: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Kevin, this was the request I mentioned.

Justina, has this come across your desk yet?

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you!

Sent from my iPhone

Begin forwarded message:

From: "Hupp, Sydney" <hupp.sydney@epa.gov>
Date: April 17, 2017 at 9:24:49 AM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

I have Sarah checking out the ethics of this.

Sydney Hupp

Office of the Administrator- Scheduling

Personal Email/Ex. 6

From: Jackson, Ryan
Sent: Saturday, April 15, 2017 7:05 PM

To: Hupp, Sydney <hupp.sydney@epa.gov>

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--

Pam Pollard, Chairman

Oklahoma Republican Party

Ex. 6 - Personal Privacy

pam@okgop.com

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

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- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

Message

From: Trudeau, Shaun [Trudeau.Shaun@epa.gov]
Sent: 5/30/2017 8:26:50 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
CC: Youngblood, Charlotte [Youngblood.Charlotte@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Action: Response to Congressional - OKGOP - FW: For Kevin's signature this afternoon
Attachments: 1 - Carper OKGOP 5-30-17 .docx; 2 - OKGOP Enclosure.pdf; 3 - Pruitt OKGOP Gala letter_invite attached.pdf

Importance: High

Hi Kevin,

Attached please find:

1. A revised version of the response to Senator Carper's letter re: OKGOP.
2. The enclosure referenced in #1 above.
3. The original request letter from Senator Carper.

Justina and OCIR have reviewed the new draft response and are comfortable with its contents. If you approve of the document, can you please authorize the use of your signature stamp?

Please note that Elise did not review the attached documents.

Please let me know if you have any questions or concerns.

Thanks,
Shaun

Shaun R. Trudeau
Attorney-Advisor
Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Minoli, Kevin
Sent: Friday, May 26, 2017 2:49 AM
To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Cc: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Action: Response to Congressional FW: For Kevin's signature this afternoon

Hi Everyone- Unfortunately, I would like there to be a number of edits/changes to this letter:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 25, 2017, at 6:42 PM, Trudeau, Shaun <Trudeau.Shaun@epa.gov> wrote:

Hi Kevin,

Attached is a draft response to a congressional letter from Senator Carper regarding OKGOP and ethics. I also attached the enclosures and original congressional request.

Justina sent me these documents as “final” for your review. If you approve of the document’s contents, can you please authorize the use of your signature stamp?

Please let me know if you have any questions or concerns.

Thanks!
Shaun

Shaun R. Trudeau
Attorney-Advisor
Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Fugh, Justina
Sent: Thursday, May 25, 2017 5:41 PM
To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: FW: For Kevin's signature this afternoon

This is the final letter to Carper et al.

From: Dickerson, Tom
Sent: Thursday, May 25, 2017 5:01 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: RE: For Kevin's signature this afternoon

Justina,

Here is the revised letter as discussed. And, the two attachments. Please let us know of any additional changes.

Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Fugh, Justina
Sent: Thursday, May 25, 2017 4:05 PM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
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Ex. 5 - Deliberative Process

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
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From: Dickerson, Tom
Sent: Thursday, May 25, 2017 1:35 PM
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Subject: For Kevin's signature this afternoon

Here are two OCIR-approved letters for Kevin's signature this afternoon.

Ex. 5 - Deliberative Process

Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Dickerson, Tom
Sent: Thursday, May 25, 2017 7:05 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: Re: here's the draft response to 8302.

Thanks, Justina. That sounds like a good plan.

Sent from my iPhone

On May 24, 2017, at 4:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

More to come. Copying Jeanne Duross of OGC/Ethics who is keeping track of our responses so I don't lose our place.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Okay with you?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code
2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC
20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-
564-1772

<Draft response to 17-000-8302.docx>

<Carper OKGOP 5-25-17 pm revisions.docx>

<OKGOP Document 1.pdf>

<OKGOP Document 2.pdf>

<Pruitt OKGOP Gala letter_invite attached.pdf>

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN SOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MONTAN, KANSAS
MIKE BOUNDS, SOUTH DAKOTA
JOHN EHRNST, IOWA
ODAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
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CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

May 1, 2017

RICHARD M. BUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We appreciate your decision to cancel your keynote speech at the May 5 Oklahoma Republican Party (OKGOP) Gala. The attached invitation, which first came to light on April 24, mentioned your official position three times, featured a photo of you being sworn in as the Environmental Protection Agency Administrator, and promised a “once in a lifetime opportunity” to hear you discuss your “plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!” The Hatch Act permits federal employees like yourself to speak at a political fundraiser as long as you are not on duty, appear only in your personal capacity, and do not solicit political contributions. Considering the invitation text clearly invoked your official position to publicize and sell tickets to the gala and raise money for the OKGOP, your participation would have violated the Hatch Act.

Many of us raised concerns during your confirmation process that your long track record of making direct political solicitations from companies and industries you now regulate, participating in political fundraising events, and chairing the boards of political organizations like the Republican Attorney Generals Association (RAGA) and the Rule of Law Defense Fund (RLDF), presented a high risk of conflicts of interest. The circumstances surrounding the May 5 Gala exacerbate those concerns. Devon Energy and Koch Industries, for example, are two of the companies with direct financial ties to you and the OKGOP and that are regulated by EPA. Had you attended the Gala, your presence there would reasonably have been seen as an opportunity to curry favor with you by making political donations to your political allies.

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- All documents and communications between you and any member of your staff and the OKGOP or anyone working on its behalf since February 17, 2017.
- All documents and communications related to your participation in the May 5 OKGOP Gala, including any ethics advisories, counseling notes, or opinions issued for this event, drafts of the event invitation, and comments or communications on those drafts.
- Any other materials you or anyone at EPA relied upon to determine that your participation in the May 5 OKGOP Gala was, or was not, permitted under the Hatch Act.

- All documents and communications related to participation by EPA staff, including your security detail, related to the May 5 OKGOP Gala and any other events you planned on attending during that trip.
- All documents and communications related to the payment of travel, accommodation, and other expenses related to the May 5 OKGOP Gala and any other events you planned on attending during that trip.
- All documents and communications related to any other political fundraisers you have already attended at Administrator, been invited to attend, and have agreed to attend in the future.
- All documents that detail your plans for ensuring that for future political events the Designated Agency Ethics Official at EPA receives draft copies of any promotional materials and description of the role you have been invited to play at such events before you agree to participate in them, in order to ensure that your participation complies with all applicable requirements.

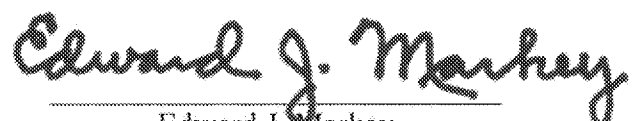
In responding to these requests, please include any memos or other hard-copy documents and communications conducted over official and unofficial electronic mail accounts, social media accounts, and encrypted messaging applications (e.g., Confide, Signal, and Whisper). We request the courtesy of a response no later than May 19, 2017.

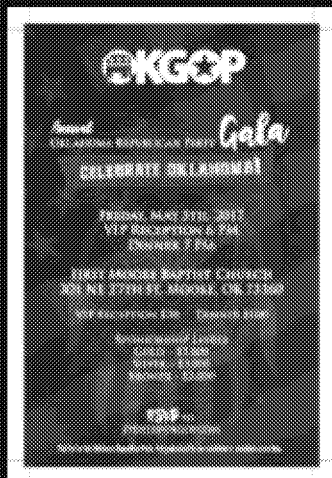
Sincerely,


 Thomas R. Carper
 United States Senator


 Sheldon Whitehouse
 United States Senator


 Jeffrey A. Merkley
 United States Senator


 Edward J. Markey
 United States Senator



THE ANNUAL
OKLAHOMA
REPUBLICAN PARTY
GALA
with
Keynote Speaker
Scott Pruitt!

VIP Reception: 6PM

Dinner: 7PM



The OKGOP is proud to announce that EPA Administrator Scott Pruitt will be the Keynote Speaker at this year's Oklahoma Republican Party Gala!

During his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA "originalism."

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Make sure to purchase your Gala tickets so you don't miss out on Administrator Pruitt's future plans and how he will continue to Drain the Swamp! This is a once in a lifetime opportunity, so buy your tickets before they sell out!

[Click Here to Buy Gala Tickets!](#)



Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 5/26/2017 6:48:33 AM
To: Trudeau, Shaun [Trudeau.Shaun@epa.gov]
CC: Youngblood, Charlotte [Youngblood.Charlotte@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Re: Action: Response to Congressional FW: For Kevin's signature this afternoon

Hi Everyone- Unfortunately, I would like there to be a number of edits/changes to this letter:

Ex. 5 - Deliberative Process

Thanks, Kevin

Kevin S. Minoli
Acting General Counsel

Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 25, 2017, at 6:42 PM, Trudeau, Shaun <Trudeau.Shaun@epa.gov> wrote:

Hi Kevin,

Attached is a draft response to a congressional letter from Senator Carper regarding OKGOP and ethics. I also attached the enclosures and original congressional request.

Justina sent me these documents as “final” for your review. If you approve of the document’s contents, can you please authorize the use of your signature stamp?

Please let me know if you have any questions or concerns.

Thanks!
Shaun

Shaun R. Trudeau
Attorney-Advisor
Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Fugh, Justina
Sent: Thursday, May 25, 2017 5:41 PM
To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: FW: For Kevin's signature this afternoon

This is the final letter to Carper et al.

From: Dickerson, Tom
Sent: Thursday, May 25, 2017 5:01 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: RE: For Kevin's signature this afternoon

Justina,

Here is the revised letter as discussed. And, the two attachments. Please let us know of any additional changes.

Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Fugh, Justina
Sent: Thursday, May 25, 2017 4:05 PM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: RE: For Kevin's signature this afternoon

Ex. 5 - Deliberative Process

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dickerson, Tom
Sent: Thursday, May 25, 2017 1:35 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: For Kevin's signature this afternoon

Here are two OCIR-approved letters for Kevin's signature this afternoon.

Ex. 5 - Deliberative Process

Thanks!

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Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

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Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Okay with you?

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<Draft response to 17-000-8302.docx>

<Carper OKGOP 5-25-17 pm revisions.docx>

<OKGOP Document 1.pdf>

<OKGOP Document 2.pdf>

<Pruitt OKGOP Gala letter_invite attached.pdf>

Message

From: Trudeau, Shaun [Trudeau.Shaun@epa.gov]
Sent: 5/25/2017 10:42:52 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
CC: Youngblood, Charlotte [Youngblood.Charlotte@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]
Subject: Action: Response to Congressional FW: For Kevin's signature this afternoon
Attachments: Carper OKGOP 5-25-17 pm revisions.docx; OKGOP Document 1.pdf; OKGOP Document 2.pdf; Pruitt OKGOP Gala letter_invite attached.pdf

Importance: High

Hi Kevin,

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Justina sent me these documents as "final" for your review. If you approve of the document's contents, can you please authorize the use of your signature stamp?

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Shaun R. Trudeau
Attorney-Advisor
Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

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Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
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<Draft response to 17-000-8302.docx>

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN SOOZMAN, ARKANSAS
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CORY A. BOOKER, NEW JERSEY
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TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

May 1, 2017

RICHARD M. BUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

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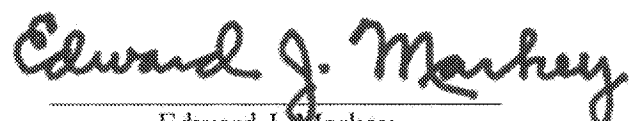
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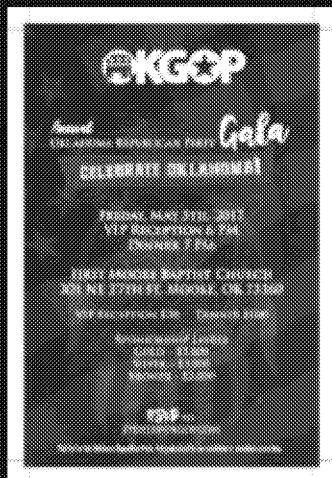
Sincerely,


Thomas R. Carper
United States Senator


Sheldon Whitehouse
United States Senator


Jeffrey A. Merkley
United States Senator


Edward J. Markey
United States Senator



THE ANNUAL
OKLAHOMA
REPUBLICAN PARTY
GALA
with
Keynote Speaker
Scott Pruitt!

VIP Reception: 6PM

Dinner: 7PM



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[Click Here to Buy Gala Tickets!](#)



Share



Tweet



Forward

Message

From: Dickerson, Tom [Dickerson.Tom@epa.gov]
Sent: 5/30/2017 4:45:39 PM
To: Lyons, Troy [lyons.troy@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Palich, Christian [palich.christian@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]; Trudeau, Shaun [Trudeau.Shaun@epa.gov]
Subject: FW: Letters for tomorrow
Attachments: Draft response to 17-000-8302 v2.docx

Troy,

Not sure whether you've been in communication with Justina about this, **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Justina, can you please send us the enclosures that you were planning to include?

When everyone is set, I'll format the letter for all the co-signors of the letter so it can be ready for Kevin's signature.

Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Fugh, Justina
Sent: Tuesday, May 30, 2017 11:16 AM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Hi Tom *et al.* --

I'm done for now, but I think that Shaun has two documents to send to Kevin Minoli for review. See notes below.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

What fun!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dickerson, Tom
Sent: Tuesday, May 30, 2017 10:42 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Good morning folks! Hope everyone had a great weekend. So, back to the letters that are close to being done. We'd like to get these out of here later today or early tomorrow if at all possible.

Ex. 5 - Deliberative Process

Please let us know where things stand from OGC's perspective. Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Fugh, Justina
Sent: Friday, May 26, 2017 4:38 PM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

No, but Shaun will be able to move the process forward. I have great faith in Shaun!

From: Dickerson, Tom
Sent: Friday, May 26, 2017 4:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Thanks, Justina, to you and all you folks for your work on all of these!

We certainly understand why folks would be fading at this hour before a holiday weekend. Is Kevin around on Tuesday if he doesn't sign them today?

Thanks again...

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Fugh, Justina
Sent: Friday, May 26, 2017 4:14 PM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Your OGC colleagues are fading fast ...
I still want to try to get changes to Shaun today so that he can get them to Kevin!

From: Dickerson, Tom
Sent: Friday, May 26, 2017 4:09 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Fugh, Justina

<Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Troy, I haven't heard any additional updates from our OGC colleagues this afternoon.

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Lyons, Troy

Sent: Friday, May 26, 2017 3:23 PM

To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Dickerson, Tom <Dickerson.Tom@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

DO you know if anymore will be cleared to go out today

From: Trudeau, Shaun

Sent: Friday, May 26, 2017 10:58 AM

To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Hi all,

My understanding:

Ex. 5 - Deliberative Process

Shaun R. Trudeau
Attorney-Advisor

Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Dickerson, Tom
Sent: Friday, May 26, 2017 10:20 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Hello OGC colleagues!

Please let us know where things stand on each of these letters that we want to get out today. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I'm off to the Dr. now so please copy all so Troy and Robin can know what to expect. Thanks!

Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

From: Aarons, Kyle
Sent: Thursday, May 25, 2017 1:46 PM
To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Dickerson, Tom <Dickerson.Tom@epa.gov>
Subject: Letters for tomorrow

Hi all – Troy is trying to get as many of these letters as possible out tomorrow:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I will be leaving at about 2:45 today and both Tom and I are out tomorrow. We will both be monitoring our email tomorrow, but please include Troy on any communication you have about these.

Thanks,
Kyle

Kyle Aaronson
Congressional Affairs
U.S. Environmental Protection Agency
202-564-7351

Message

From: Wilcox, Jahan [wilcox.jahan@epa.gov]
Sent: 6/9/2017 1:34:34 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Graham, Amy [graham.amy@epa.gov]; Konkus, John [konkus.john@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]
Subject: WFB: EPA Has Responded to Senate Committee Requests, Undermining Democrat's Claim

EPA Has Responded to Senate Committee Requests, Undermining Democrat's Claim

Sen. Tom Carper says he will block any EPA nominee until his committee letters are answered

The Washington Free Beacon

June 9, 2017

<http://freebeacon.com/issues/epa-responded-senate-committee-requests-undermining-democrats-claim/>

The Environmental Protection Agency has responded to half of a Senate oversight committee's information requests, undermining a top Democrat's claim that he is blocking nominees because the agency has not answered his letters.

Sen. Tom Carper (D., Del.), the leading Democrat on the Senate Environment and Public Works Committee, said he is opposing Susan Bodine, President Donald Trump's nominee for assistant administrator for enforcement and compliance assurance, despite her impressive resume.

"Certainly, Ms. Bodine's resume is helpful," Carper said in a statement Wednesday. "With over a decade of experience in the House and Senate and time spent working in the Bush Administration, I believe she understands the relationship that should exist between the separate, but equal branches of our government. Ms. Bodine has also served as counsel to two chairmen of this committee, both of whom have taken their oversight roles very seriously."

Carper said he raised his "serious concerns" with Bodine on the lack of responses from the EPA from his committee. "Specifically, I noted the multiple letters from EPW members that have still received no response, including an inquiry on EPA's enforcement activities," Carper said. That letter was sent less than three weeks ago, and Carper asked for a response by June 23.

"I do not believe her Senate bosses would stand for such blatant disregard from an agency, and Democratic members will not either," Carper said.

Carper added that he could not support Bodine, or any other Trump EPA nominee, until he receives responses to his letters.

"Until members of this committee receive adequate responses from Mr. Pruitt so that we can all exercise our oversight responsibilities, I feel I have no choice but to oppose the consideration of any additional EPA nominees," he said. "I stand ready to work with Chairman Barrasso to resolve this issue as soon as possible, ideally before Ms. Bodine's rescheduled confirmation hearing next week."

The EPA pushed back against Carper's claim, providing the Washington Free Beacon with a record of the letters processed since Pruitt was confirmed.

"We've received 20 letters from Senator Carper and 10 have already received a detailed response," said Jahan Wilcox, an EPA spokesman. "Of the remaining 10 letters: Seven were received in the past month and we are working to respond as quickly as possible."

"EPA staff is committed to being responsive to Congress," Wilcox said.

Requests submitted by the committee included an inquiry about a Politico article suggesting the EPA is considering hiring private lawyers to rewrite the Obama administration's Waters of the United States regulation. The EPA sent its response on May 17.

Other requests that have been fulfilled included documents related to Pruitt's decision to not attend the Oklahoma GOP fundraising gala. The response was delivered June 1.

Another response, dealing with documents about Pruitt's ethics agreement, was fulfilled in three days. The committee sent a letter on May 2 regarding Pruitt's lawsuit seeking to overturn the EPA's 2015 National Ambient Air Quality Standards (NAAQS) for Ozone while he was attorney general of Oklahoma. The EPA sent a final response on May 5.

An additional response to a Senate inquiry will be mailed on Friday.

Bodine has received bipartisan support. Scott Fulton, an EPA general counsel under the Obama administration, endorsed Bodine.

"During the Obama administration, when I served as EPA's general counsel, Susan and I worked collaboratively on matters of shared concern to the administration and the Congress," said Fulton, who is now president of the Environmental Law Institute. "Through these various intersections, I have found Susan to be fair minded, clear thinking, and strategic in her approach, as well as effective in her leadership. She has a deep understanding of EPA and the EPA-State relationship, which will equip her well to lead [the Office of Enforcement and Compliance Assurance] OECA."

Bodine is "deeply familiar with EPA, having led the agency's solid waste office during the George W. Bush administration," according to Environment & Energy Publishing.

Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 4/26/2017 11:42:40 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Fwd: Morning Energy, presented by ExxonMobil: Next phase of nuclear waste debate kicks off — Trump signs monument executive order today — Whitehouse seeks investigation of Pruitt over dinner invite

We need to get some kind of gauge of what business as usual means.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

Begin forwarded message:

From: "POLITICO Pro Energy" <politicoemail@politicopro.com>
Date: April 26, 2017 at 5:49:31 AM EDT
To: <jackson.ryan@epa.gov>
Subject: Morning Energy, presented by ExxonMobil: Next phase of nuclear waste debate kicks off — Trump signs monument executive order today — Whitehouse seeks investigation of Pruitt over dinner invite
Reply-To: "POLITICO subscriptions" <reply-fe8d12757062067870-630326_HTML-786581600-1376319-0@politicoemail.com>

By Anthony Adragna | 04/26/2017 05:45 AM EDT

With help from Darius Dixon, Eric Wolff, Alex Guillén and Annie Snider

SHOWDOWN IN YUCCA-TOWN: Republicans have been beating the drum on the Yucca Mountain nuclear waste project practically since they took the House in the 2010 elections, and now the dog has caught the proverbial truck. Sen. Harry Reid has retired, a Republican is in the White House and backers of the nuclear waste project have real, live (draft) legislative text on trial today, demonstrating that years of House Energy and Commerce Committee hearings and feedback didn't stumble into a black hole. "This discussion draft reflects what we learned through those hearings, oversight activities and related work," Rep. John Shimkus, an E&C subcommittee chair who's been one of Congress' biggest Yucca-vangelists, will say, according to prepared remarks obtained by ME. "However, it is just that: a discussion draft. And today we start of process of taking input from all stakeholders on this draft."

Heller v. Shimkus: The bill, which includes language authorizing interim storage facilities and offers several olive branches to Nevada, is an acknowledgment that the project's situation requires more than simply flipping a hidden switch that might get the program on its feet. Yucca supporters can point to a 45-page document that bears out what Shimkus and his fellow Republicans have been thinking. But critics also now have a text to attack (ME shudders to think about the nuclear equivalent of Sen. Joe Manchin shooting a hole in the 2010 cap-and-trade bill?). Sen. Dean Heller, who is testifying on the first panel at today's hearing and is one of the few Republicans vulnerable in next year's elections, says the draft bill is "heavy-handed, federal government-only proposal to reinstate Yucca Mountain while making false promises to the residents of Nevada."

The deets: The first panel of today's hearing is stacked with Nevada lawmakers opposed to Yucca, including Heller, who was something of late addition. The second panel includes officials representing state regulators, and the nuclear energy industry, as well as Ward Sproat, who submitted Yucca Mountain's application to regulators in 2008. The hearing starts at 10 a.m. in Rayburn 2123.

MONUMENTAL CHANGE? President Donald Trump will late this morning sign an executive order at the Interior Department headquarters calling on Secretary Ryan Zinke to review the national monument designations made by the past three presidents, Pro's Esther Whieldon reports. Zinke will have 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation to Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act. The monument review will largely focus on two Utah monuments: President Barack Obama's designation last year of Bears Ears National monument and President Bill Clinton's protection of the Grand Staircase-Escalante National Monument back in 1996.

But the order will be noticeably silent on assertions of the scope of Trump's authority to revoke monuments. Zinke stressed his belief that presidents can revise the scope of monument designations, though no president has fully revoked the status for existing monuments entirely. Green groups and tribal advocates say they'll challenge any attempt by the Trump administration to change the footprint or eliminate existing monuments. More from Esther here.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and Van Ness Feldman LLP's R. Scott Nuzum was first to identify St. Louis as the host of America's first Olympics. For today: What former MLB baseball player, nicknamed "Vinegar Bend," went on to serve three terms in Congress? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

New! Day Ahead: POLITICO Pro's comprehensive rundown of the day's congressional schedule, including details on legislation, votes, as well as committee hearings and markups. Day Ahead arrives in your inbox each morning to prepare you for another busy day in Washington. Sign up to receive Day Ahead.

WHITEHOUSE REQUESTS PRUITT PROBE: Sen. Sheldon Whitehouse asked the U.S. Office of Special Counsel in a letter to investigate whether EPA Administrator Scott Pruitt would violate the Hatch Act if he follows through on his plan to headline an Oklahoma Republican Party fundraiser, Pro's Alex Guillén reports. Whitehouse also asked that OSC instruct Pruitt not to attend the event.

In response, EPA spokesman J.P. Freire told Alex the fundraising flier was a mistake and that Pruitt had sought to avoid a conflict: "We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements. We are working to fix this and ensure full compliance with the rules." The Oklahoma GOP did not return a request for comment last night.

Scotty don't: This handy Hatch Act guide from EPA's Office of General Counsel has a number of rules for what Pruitt can and can't do at political fundraisers. He can attend them, but cannot solicit contributions, let his name be used as a sponsor or host, or let himself be identified by more than his name on an invitation. If Pruitt is determined to attend, the guide does indicate he can serve drinks or check coats. Serving salmon puffs and bacon-wrapped scallops, however, appears to be a gray area.

TAKING CARBON STOCK: If fully implemented, Trump's policies on climate change mean that by 2025 the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year — more than the annual emissions from Germany — than under Obama's most ambitious target, Pro's Eric Wolff reports. Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute.

But wait a sec: Pennsylvania State University climate scientist Michael Mann said Obama's policies may be difficult to toss out thanks to the courts and resistant federal staffers. "Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us. Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated."

SHUTDOWN UPDATE: Congress still has much to work through if it hopes to avoid a government shutdown (or a short-term CR) on Friday, but energy and environmental issues don't appear to be the problem. Energy and Water subcommittee Chairman Lamar Alexander told reporters his portion of the spending package was "all done" though declined to comment on whether it included anything for Yucca. And Sen. Lisa Murkowski, who heads the Interior-EPA spending panel, said appropriators were "still working" on her portion of the package but that there were "not really" any controversial riders included in it.

Miners' benefits still a sticking point: Lawmakers are still seeking to fund health care benefits for retired coal miners in the government funding legislation, Pro Employment & Immigration's Marianne LeVine reports. "We want to help our miners," Senate Minority Leader Chuck Schumer said. Senate leadership favors a permanent fix, but the House is pushing for a shorter-term solution. McConnell said Tuesday "it's my hope" a permanent fix makes it into the final package.

That comes as 97 groups, including Earthjustice, the League of Conservation Voters and the Wilderness Society, wrote to congressional leaders Monday urging them to keep the emerging government funding bill free of "anti-environment, anti-science riders."

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PARIS PULLOUT SPLITS SENIOR REPUBLICANS: Like the Trump administration itself, the question of whether to abandon the Paris agreement has split senior Senate Republicans. Senate EPW Chairman John Barrasso reiterated his support for abandoning the deal altogether, while Sen. John Thune voiced openness to sticking with the deal, but trying to negotiate terms. "Maybe that's a good landing place, but I do think that we are not treated fairly relative to the countries in the world who create the most pollution," he told ME.

Murkowski 'agnostic': Murkowski called herself "agnostic" about what to do but also said she'd "suggested that maybe there are other things that we need to be doing and looking at as we're working to reduce our impacts." The comments from lawmakers come as 14 state attorneys general asked Trump to affirm U.S. support for the pact and as the White House rescheduled a meeting of principals for Thursday on what position to take on the deal.

And ME obtained a memo from two Competitive Enterprise Institute officials outlining potential options for Trump to meet his campaign vow to "cancel" the Paris Agreement. "President Trump has three principal options for keeping his campaign promise: withdraw from Paris only, withdraw from the UNFCCC, or seek Senate input," it said.

Miners deny Pruitt pushed: A National Mining Association spokesman strongly denied late Tuesday that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did. The group voted to push the Trump administration to exit the pact one day after the EPA administrator met with the group's leadership.

CRAMER LETTER READY TO ROLL: Rep. Kevin Cramer's long awaited letter to Trump in support of keeping the U.S. in the Paris climate agreement will be sent today, the North Dakota Republican told reporters last night. The letter is expected to advocate for reducing the U.S. commitment to the agreement, increasing support for emission-reducing technologies for fossil fuels, and stopping payments to the Green Climate Fund. Cramer said he has eight signatories, mostly from the Energy and Commerce Committee, and he hopes to add a few more before dropping the letter in the mail.

SENATE'S WOTUS TAKEDOWN: The Senate Environment and Public Works Committee dives deep into the technical details and regulatory process for the Obama administration's controversial water rule this morning, in an effort to help the Trump administration build the case for pulling it back.

The battle lines will be stark: On critics' side will be Michael Josselyn, the dissenting voice on an outside scientific review panel for the regulation, and Misha Tseytlin, Wisconsin's solicitor general. Defending the rule will be Ken Kopocis, the Obama administration's water chief, and Collin O'Mara, president of the National Wildlife Federation. Then there's a big wildcard: Maj. Gen. John Peabody, a retired top Army Corps officer who blasted the Obama rule in internal memos to his political boss, complaining that the Corps was cut out of the process, but also that changes made in the final 2015 rule required a more extensive environmental analysis because they stood to significantly retract federal protections over streams and wetlands.

BARRASSO EYES METHANE VOTE 'NEXT WEEK': Republican aides said they've yet to firmly lock down the requisite vote necessary to nullify a BLM regulation aimed at curbing methane emissions on public lands, but lawmakers are eyeing a vote in the coming days. "I expect to have a vote next week," Barrasso told reporters Tuesday. More than 110 local officials from Colorado, New Mexico, Idaho, Nevada, Wyoming, Utah and the Ute Mountain Tribe urged Congress not ax the regulation using the Congressional Review Act in a letter sent today.

HOEVEN HOPEFUL ON CCS MOVEMENT: It may seem like near-term opportunities to advance energy legislation are scarce, but Sen. John Hoeven told reporters Tuesday he's optimistic the Senate can pass legislation reforming and extending tax incentives for carbon capture and sequestration projects this session. "I think we'll get that passed this year," the North Dakota Republican said. "That's how you make carbon capture commercially viable." He noted Majority Leader Mitch McConnell has co-sponsored similar legislative efforts previously.

PERRY'S (NU)CLEAR THINKING: National security relies on having nuclear energy as a continuing part of the electric grid, and that justifies moves by the federal government that override state authority, Energy Secretary Rick Perry said Tuesday at Bloomberg New Energy Finance Summit in New York City. As Pro's Darius Dixon reports, the former Texas governor also vowed he's perfectly comfortable shepherding the DOE funding cuts sought by Trump.

"Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said.

UNDERSTANDING TWO-FOR-ONE ORDER: Venable LLP released [an FAQ guide](#) to understanding Trump's executive order requiring the elimination of two regulations for every new one issued (with some exemptions). It notes perhaps the "biggest challenge" surrounding the order will be developing the evidentiary record necessary to eliminate existing regulations, which "may require substantial investment in time and money that agencies and relevant stakeholders may not be able or want to undertake."

LAWSUIT FILED OVER RECORDS FOR LIKELY INTERIOR DEPUTY: The Western Values Project filed [a lawsuit](#) in federal court Tuesday seeking records related to David Bernhardt's tenure at Interior during the George W. Bush administration. "There shouldn't be any secrets about Mr. Bernhardt if he stands a chance of becoming one of the most powerful figures at Interior," Chris Saeger, the group's executive director, said in a statement. Bernhardt is [thought to be a leading contender](#) for a top agency position, including deputy secretary.

MAIL CALL! SAVE EPA REGION 5! Eight senators and 27 Democratic congressmen sent Pruitt [a letter](#) Tuesday urging him not to shutter EPA's Chicago-based regional office. "Region 5 does not duplicate enforcement or regulatory actions, rather Region 5 allows the EPA to better coordinate federal efforts with state and local governments," they wrote. The agency has strongly denied it was considering the option of closing the region. Sen. [Rob Portman](#) was the lone Republican to sign the letter.

STEADY BREEZE: Phil Murphy, the front-runner for the Democratic gubernatorial nomination in New Jersey, hopes to build 3,500 megawatts of offshore wind generation by 2030 as part of his energy policy, POLITICO New Jersey's David Giambusso [reports](#). That'd be enough to power roughly 1.5 million homes. The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative that Gov. Chris Christie left.

ENERGY PORTAL LAUNCHES: R Street and CRES Forum are today launching a new portal, [Energy Done Right](#), that explores energy and environmental issues from the right-of-center think tank community perspective.

MORE JOIN THE CLIMATE ARK: Freshmen Reps. [Mike Gallagher](#) and [Salud Carbajal](#) are the latest members of the bipartisan Climate Solutions Caucus.

MOVER, SHAKER: David Goldston leaves NRDC next month after eight years as the environmental group's director of government affairs to become director of the MIT's Washington office, Pro's Alex Guillén [reports](#).

QUICK HITS

- State Department Memo Boosts Case to Stay in Paris Climate Pact. [Bloomberg](#).
- Trump's plan to kill Energy Star could benefit his properties. [CNN](#).
- Can EPA Get the Lead Out Amid Deregulatory Fervor? [Bloomberg BNA](#).
- Most global investors recognize financial risk of climate change, report finds. [The Guardian](#).

— Quake raises new concerns about Atlantic Sunrise pipeline, but builders say safeguards built in. [Lancaster Online](#).

— Valero CEO expects Q2 biofuel costs to be 'a significant headwind'. [Reuters](#).

HAPPENING TODAY

7:30 a.m. — BakerHostetler's 28th Annual Legislative [Seminar](#), Hyatt Regency on Capitol Hill, 400 New Jersey Ave. NW

10:00 a.m. — "[A Review of the Technical, Scientific, and Legal Basis of the WOTUS \(Waters of the United States\) Rule](#)," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — "[H.R., the Nuclear Waste Policy Amendments Act of 2017](#)," House Energy and Commerce Environment Subcommittee, 2123 Rayburn

4:00 p.m. — Reps. Curbelo and Moulton deliver remarks at coastal sustainability briefing being hosted by the bipartisan Climate Solutions Caucus, 421 Cannon

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To view online:

<https://www.politicopro.com/tipsheets/morning-energy/2017/04/next-phase-of-nuclear-waste-debate-kicks-off-022531>

Stories from POLITICO Pro

Trump to order review of national monuments [Back](#)

By Esther Whieldon | 04/25/2017 09:02 PM EDT

President Donald Trump is set to order the review of tens of millions of acres of land and water set aside as national monuments by the past three presidents on Wednesday, a move that environmental groups warn will undermine a crucial conservation tool and open up sensitive areas to fossil fuel development.

The review will be conducted by Interior Secretary Ryan Zinke and will encompass the dozens of monuments created over the past 21 years, although the main focus will be on President Barack Obama's designation last year of Bears Ears National monument, as well as the Grand Staircase-Escalante National Monument protected by President Bill Clinton in 1996. Both of those are in Utah, and the state's lawmakers have pressed to revoke the monument status for the two sites, which are believed to hold fossil fuel resources.

But Zinke sought to quell concerns that the executive order would roll back conservation protections provided by 1906 Antiquities Act, saying the Trump's order "does not strip any monument ... or loosen any environmental conservation on any land or marine areas."

Yet environmental groups fear the review is a simply a pretense to unwind the federal protections in the future, since both Trump and Zinke have supported growing U.S. fossil fuel output.

The Antiquities Act is "one of our country's kind of bedrock conservation laws," said Daniel Ritzman, Sierra Club western public lands protection campaign director.

Sixteen different presidents have used the law "to protect some of our country's most special places. You know places like the Grand Canyon [National Park] started out out as a national monument," he said. "And it's not just our important landscapes that have been protected, it's also used to protect some unique American cultural sites, especially Native American cultural sites."

Presidents have also used the law to block off areas from fossil-fuel development, such as coal mining at Grand Staircase, but environmental and conservation groups worry those protections will be tossed aside as Trump looks for additional ways to unleash energy development on public lands and waters.

"This administration has made it clear that they're going to do the bidding of the oil and gas industry," said Jennifer Rokala, executive director of the Center for Western Priorities, a Colorado-based conservation group.

The order gives Zinke 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation or for Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act.

The order does not make any assertions as to the scope of Trump's authority to revoke monuments, Zinke said and he reiterated his belief that presidents can revise the scope of monument designations, though that the broader authority to delist monuments remains untested in courts.

While presidents have tweaked the size of their predecessor's monument designations — President Dwight D. Eisenhower, for example, reduced Colorado's Great Sand Dunes National Monument by 25 percent — none have fully revoked the status for existing monuments entirely. Environmental groups and tribal officials say they stand ready to sue over any attempts by Trump to change the footprint or eliminate existing monuments.

Obama used the power under the Antiquities Act to to protect more land than any previous president, from underwater canyons and mountains off Cape Cod to the vast Papahānaumokuākea Marine National Monument in the Pacific Ocean. His aggressive use of the Act drew scathing criticism from Republicans, who complained the White House abused the law to override local opposition and restrict development and usage of the lands.

Groups have already challenged two of Obama's monument designations, including a lawsuit by fisheries groups over the Northeast Canyons and Seamounts National Marine Monument off the East Coast, but neither of the cases address the scope of a president's authority to revoke a monument.

Meanwhile, the energy industry has been lobbying for access to more public lands — as well revisions to ease the environmental reviews and other permitting processes. The American Petroleum Institute in a January [letter to lawmakers](#) urged Congress to revamp the Antiquities Act, arguing the increasing use of the law presents "threats to responsible and balanced use of federal lands offshore and onshore."

"There's absolutely interest in developing oil and natural gas resources on public lands," said Erik Milito, API's director of upstream and industry operations.

"There's highly prospective areas for the industry and we've seen considerable development on state and private lands in the vicinity of public lands, which would demonstrate that there could be far greater opportunities if we had a more streamlined process and more opportunities by eliminating these types of obstacles to development."

[Back](#)

Pruitt to headline Oklahoma GOP gala [Back](#)

By Alex Guillén | 04/24/2017 10:52 AM EDT

EPA Administrator Scott Pruitt will headline the Oklahoma Republican Party's annual gala next week, according to an [event invitation](#).

"You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!" the invitation says.

It notes that Pruitt in just a few months has already "overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"

Pruitt was previously Oklahoma's attorney general. The event takes place on May 5 in Moore, Okla.

[Back](#)

Whitehouse alleges Pruitt fundraiser appearance violates Hatch Act [Back](#)

By Alex Guillén | 04/25/2017 07:24 PM EDT

Sen. [Sheldon Whitehouse](#) (D-R.I.) today alleged that EPA Administrator Scott Pruitt's upcoming headlining appearance at an Oklahoma Republican Party fundraiser violates the Hatch Act, the law prohibiting federal employees from partaking in many political activities.

Pruitt is [slated](#) to appear at the Oklahoma GOP's annual gala fundraiser on May 5, and the [invitation](#) promises that Pruitt will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

In a [letter](#) to the U.S. Office of Special Counsel, the independent agency that investigates these matters, Whitehouse argues that "the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee

will have special access to a federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act."

Whitehouse also asked that OSC instruct Pruitt not to attend the event.

EPA did not immediately return a request for comment.

Cabinet members have occasionally crossed a line on the Hatch Act, including last year, when then-Housing and Urban Development Secretary Julian Castro answered a question about the presidential race during an interview with Yahoo News. OSC in that instance did not recommend a punishment for Castro.

If OSC concludes the Hatch Act was violated by a presidential appointee, the matter is referred directly to the president for possible punishment or sanctions.

[Back](#)

EPA: Pruitt fundraiser appearance OK'd, but flier erred [Back](#)

By Alex Guillén | 04/25/2017 08:56 PM EDT

EPA says an invitation touting Administrator Scott Pruitt's appearance at a May 5 Oklahoma GOP fundraiser was an error and that Pruitt had worked to avoid a political conflict.

"We take very seriously the rules by which federal officials must participate in public events. We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements," EPA spokesman J.P. Freire said in an email. "We are working to fix this and ensure full compliance with the rules."

Sen. [Sheldon Whitehouse](#) today [alleged](#) that the [invitation](#) to the Oklahoma GOP's annual gala fundraiser put Pruitt on the wrong side of the Hatch Act, the law limiting political activities by presidential appointees and other government officials.

The Hatch Act does not bar officials like Pruitt from attending political fundraisers, though there are restrictions, including on what Pruitt can say and a prohibition on organizers using a government officials' title to sell tickets. The invite, issued by the state Republican party, uses Pruitt's title and says he will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

Whitehouse has urged the U.S. Office of Special Counsel to investigate and bar Pruitt from attending the fundraiser.

[Back](#)

Trump's already making his mark on climate [Back](#)

By Eric Wolff | 04/25/2017 08:57 PM EDT

President Donald Trump's aggressive rollback of the Obama administration's climate policies is already changing the trajectory of the world's efforts on global warming, with some analysts

estimating it will mean billions more tons of greenhouse gases entering the atmosphere during the next decade and a half.

It could be one of the most durable legacies of his young presidency — regardless of whether Trump decides to withdraw the U.S. from the Paris climate agreement.

Trump has spent much of his first 100 days in office launching a series of efforts to undo former President Barack Obama's domestic climate policies, seeking to ease pollution limits on power plants, vehicle tailpipes, coal mining, and oil and gas wells. And while Democrats and environmental groups promise fierce resistance, analysts say Trump's efforts could bring an effective halt to U.S. efforts to cut the carbon pollution that scientists blame for warming the planet.

"This is an experiment we can only run once, and then it's too late," said Princeton University climate scientist Michael Oppenheimer. "We were in a lot of trouble with climate change already. This only makes it more risky. It's hard to quantify how much it matters, but it makes attainment of a difficult-to-achieve target more or less impossible."

The United States is the world's second-largest carbon polluter, but its greenhouse gas output has slid sharply in the past decade — a trend driven partly by increases in energy efficiency and a shift from coal to natural gas as a power source. Obama had pledged to continue those reductions in the coming decade to meet U.S. commitments in the 2015 Paris agreement, in which nearly 200 nations made non-binding promises to cut their carbon pollution. Hillary Clinton had promised even steeper reductions.

Trump, in contrast, has vowed to reverse Obama's policies, lift restrictions on the energy industry and "save our wonderful coal miners" — pledges that helped him win fossil fuel-producing swing states like Pennsylvania and Ohio.

And his actions will have a real-world effect, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute. Instead of falling, Rhodium's projection estimated that Trump's policies, if fully implemented, will cause U.S. carbon pollution to continue more or less at current levels. That means that by 2025, according to POLITICO's analysis, the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year than under Obama's most ambitious target.

That extra U.S. carbon would exceed the annual output of Germany, one of the world's top greenhouse gas polluters. That would be enough to increase the world's annual carbon emissions by almost 2 percent, Pennsylvania State University climate scientist Michael Mann said — at a time when climate researchers say the world urgently needs to accelerate its cuts.

Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on Rhodium's estimates.

In other words, Trump's domestic actions on energy would be his real contribution to global climate policy — a fact obscured by the noisy political fight on whether the U.S. should withdraw from Paris. The figures don't even account for the possibility that a U.S. retreat on climate efforts would cause other major polluters, such as China and India, to pull back on their commitments.

"If you're going after the Clean Power Plan and going after everything else and all the other rules, then whether or not you stay in Paris appears to be symbolic from the perspective of U.S.

emissions," said Andrew Light, a fellow at the World Resources Institute who worked for the State Department under Obama.

Rhodium based its analysis on a March 28 executive order in which Trump directed his agencies to take the first steps toward reversing some of Obama's most significant climate actions, including regulations on coal miners, oil and gas drillers, and thousands of power plants.

Trump and his appointees have made no secret of their disdain for Obama's attempts to rally the world on climate change, an issue the president has labeled a Chinese-inspired "hoax" that's wiped out American jobs. White House budget director Mick Mulvaney dismissed climate programs last month as "a waste of your money," telling reporters that "we're not spending money on that anymore."

Mulvaney was defending Trump's proposal for a 31-percent budget cut for the Environmental Protection Agency, whose carbon regulations on the power, auto, coal, oil and gas industries had provided the heart of Obama's climate policies.

Among other steps to erase Obama's climate legacy, Trump has ordered the EPA to begin unwinding Obama's 2015 regulations on greenhouse gases from power plants, moved toward easing the agency's vehicle fuel-efficiency requirements and signed off on Congress' repeal of stream-pollution restrictions that had threatened to hinder some coal mining activity. He is also due to take steps this week toward opening up vast new offshore regions for oil and gas production — a sharp break from the limits Obama imposed late in his second term.

More quietly, the administration has postponed Energy Department efficiency standards for commercial and consumer appliances such as freezers and boilers, withheld grants for research into next-generation energy technologies, and ordered the government to revise a metric called the "social cost of carbon" that seeks to factor the impacts of climate change into regulatory actions. Administration lawyers have also persuaded appellate judges to postpone rulings on several Obama-era rules facing industry challenges, giving Trump's agencies more time to pull them back for reworking.

Rhodium's analysis of the effect of Trump's executive order comes with plenty of caveats: It assumes that cities and states will fail to fill the gap in federal policy, and that a climate advocate will not take over the White House in 2020. It also does not allow for faster-than-expected advances in renewable energy technologies — notably battery storage — that could accelerate the shift to wind and solar power.

But Rhodium also doesn't include other measures that Trump could take, such as reneging on a 2016 treaty to limit the production of potent greenhouse gases known as hydrofluorocarbons. That agreement by itself could forestall 0.5 degrees Celsius in global warming during this century, according to U.N. estimates. The Paris agreement is meant to prevent the rise in average global temperatures from exceeding 2 degrees Celsius above pre-industrial levels.

Rhodium's partners include Trevor Houser, who was a top outside adviser to the Clinton campaign on energy issues.

Climate researchers say the world is so close to a tipping point that any backsliding would be dangerous.

For example, carbon dioxide levels in the Earth's atmosphere have been hovering above 405 parts per million since November, the highest on record, according to the National Oceanic and

Atmospheric Administration — significantly higher than the 350-parts-per-million level that some leading climate researchers say the world needs to move back to. The estimated change in emissions allowed by Trump's executive order would add 2 parts per million in the next 20 years, according to a rough estimate by Pieter Tans, chief of the Carbon Cycle Greenhouse Gases Group at the NOAA Earth Science Research Laboratory.

Put another way, those extra emissions alone would move the world 4 percent closer to 450 parts per million — the point at which the world still has a better-than-50-percent chance of stabilizing global temperatures, according to the Organization for Economic Cooperation and Development. Failing to stabilize temperatures would could mean intensifying extreme weather events at "unprecedented levels," the OECD says. It could also move the world to a point where temperature and emissions feedback loops make changes in the world's climate change irreversible.

"Thus far, we human beings have mostly controlled climate change through emissions of greenhouse gases," Tans said in an email. "Continuing on this path will likely lead to uncontrolled and potentially very large emissions of [carbon dioxide] and [methane] from the melting of permafrost in the Arctic, to name one plausible feedback effect."

Still, some advocates for deep cuts in carbon emissions, such as Mann, hold out hope that Obama's policies will prove difficult to uproot. They're counting on the courts and resistant federal staffers to stall Trump's plans.

"Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us.

"Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated," he added.

Skeptics of Obama's policies argue that the U.S. would absorb most of the pain of the Paris agreement while countries such as China and India — the world's biggest and fourth-biggest carbon polluters, respectively — would get off easy. Both countries are expected to produce more carbon dioxide in 2030 than they did in 2015.

"The Obama administration made really ambitious commitments in Paris with no clear way to get there under current regulations," said Robert Dillon, an energy expert with the American Council for Capital Formation, who contends that Trump's decision to ease off on Obama's carbon rules puts the U.S. on a level playing field.

"Any time you have a concern where you're tying one hand behind your back to compete in the global market, there are legitimate concerns about how the country remains competitive and improves the standard of living for American families," he added.

Meanwhile, Trump's rollback puts pressure on other countries to decide how to respond. The U.S. already butted heads with other G-7 nations this month when Energy Secretary Rick Perry's insistence that the Paris agreement should not be mentioned scuttled a joint communique.

Some foreign leaders are choosing to be optimistic, for now.

"I don't see the world backing off," Swedish Deputy Prime Minister Isabella Lövin told reporters last week in Washington. Instead she expressed concern about the next stage of the Paris agreement, which calls for nations to further cut their greenhouse gases.

"We are concerned that some might point to the U.S. and say, 'We don't have to raise ambitions now if the U.S. is not going to take part of this,'" she said. "And the U.S., of course, has a great responsibility for the historic emissions. That makes it a really bad chase to the bottom."

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Schumer, McConnell: We're trying to find a solution for miners [Back](#)

By Marianne LeVine | 04/25/2017 03:26 PM EDT

Senate Minority Leader [Chuck Schumer](#) said today that finding a solution to fund health care benefits for retired coal miners remains an "outstanding" issue in funding negotiations.

"We want to help our miners," Schumer said.

Lawmakers are expected to include some provision in this week's appropriation bill to shore up miners' health benefits. Senate leadership favors a permanent solution, but House leadership wants a shorter-term fix.

Senate Majority Leader [Mitch McConnell](#) reiterated today that he is "in favor of a permanent fix on miners' health care."

"It's my hope that that will be included in the final package," McConnell said.

Jennifer Scholtes contributed to this report.

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Trump advisers' meeting on Paris deal reset for Thursday [Back](#)

By Andrew Restuccia and Josh Dawsey | 04/25/2017 03:25 PM EDT

The Trump administration has rescheduled a meeting of senior advisers to hash out internal divisions over the Paris climate change agreement for Thursday, two administration officials told POLITICO.

The meeting could help decide the fate of the United States' involvement in the accord, which won the support of nearly 200 nations in Paris in 2015. Trump's advisers hope to make a recommendation to the president about how he should proceed.

Several of Trump's close advisers and Cabinet secretaries, including Jared Kushner and Secretary of State Rex Tillerson, are said to support staying in the deal. But chief strategist Steve Bannon and EPA Administrator Scott Pruitt strongly oppose the pact and have been privately making the case that the U.S. should withdraw.

While the list of attendees is unclear, Tillerson, Bannon, Kushner, National Economic Council Director Gary Cohn, national security adviser H.R. McMaster and Energy Secretary Rick Perry are expected to be at the meeting.

The meeting had been [scheduled](#) to take place last week, but it was postponed because several Trump advisers traveled with the president to Wisconsin.

Trump's advisers and energy industry officials have been engaged in a months-long behind-the-scenes effort to sway the president. Aides who support staying in the deal have argued Trump could still achieve his policy goals, with less international blowback, by weakening Obama's pollution-reduction targets while trying to negotiate greater global support for fossil fuels. They've won the support of several energy companies, including a few major coal producers.

Meanwhile, Republicans in Congress and hard-line conservatives have argued that the president must withdraw altogether, noting that Trump promised during the campaign to cancel the agreement.

Trump is expected to make a final decision by late May, when he'll travel to Italy to participate in a G-7 meeting.

A White House spokeswoman did not immediately respond to a request for comment.

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Mining group to support pulling out of Paris after meeting with Pruitt [Back](#)

By Andrew Restuccia | 04/25/2017 04:07 PM EDT

A coal mining industry group's board of directors voted on Tuesday to press President Donald Trump to withdraw from the Paris climate change agreement — just one day after EPA Administrator Scott Pruitt met with the group's leadership to discuss the accord, two sources told POLITICO.

Pruitt personally attended a meeting of the National Mining Association's executive committee on Monday to lay out his concerns with the Paris accord.

A National Mining Association spokesman strongly denied that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did.

Trump has often aligned himself with coal miners, promising to revive the industry that has suffered sharp job losses over the past decade as the U.S. appetite for the energy source has waned. Just last month, Trump went to the EPA's headquarters with a group of coal miners to sign an executive order rolling back President Barack Obama's regulation curbing carbon emissions from power plants.

Pruitt has emerged in recent weeks as one of the administration's leading critics of the 2015 Paris deal, calling it a "bad deal for America" in a recent interview. An EPA spokesman confirmed Pruitt attended the NMA meeting, saying that he "discussed the problems with the Paris agreement."

The NMA board's decision is the latest evidence of the split within the coal industry over the Paris deal. Several major coal companies have signaled their openness to the U.S. remaining in the Paris agreement if the White House can negotiate more global support for technology that would reduce the carbon footprint of coal.

But other coal companies, including Murray Energy, which is led by Trump supporter Robert Murray, are vociferously opposed to the accord, which has won the backing of nearly 200 nations.

The NMA vote was 26-5, with some members abstaining, according to one source.

The NMA board's decision to weigh in raises the stakes in the behind-the-scenes standoff within the White House over the international climate accord. Several White House aides, including senior adviser Jared Kushner, are said to be in favor of remaining in the agreement, while chief strategist Steve Bannon supports withdrawing.

White House aides who want to remain in the pact have sought to build support among energy companies in recent weeks. But several Republicans and industry groups have launched a counter-offensive to increase momentum for exiting the agreement. Sen. John Barrasso distributed a document arguing for leaving the Paris agreement at a Tuesday policy lunch with Senate Republicans.

Trump's top advisers are set to meet on Thursday in hopes of making a formal recommendation to President Donald Trump. Trump is expected to decide whether to stick with the accord before the G-7 summit at the end of May.

NMA is still writing its statement urging a Paris withdrawal and it's unclear when it will be sent to the White House, one source said.

This story has been updated to add a statement from the National Mining Association.

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Cramer floats conditions to stay in Paris deal [Back](#)

By Andrew Restuccia | 03/23/2017 04:30 PM EDT

Republican Rep. [Kevin Cramer](#) is circulating a letter that lays out conditions for the United States to stay in the Paris climate change agreement.

The previously unpublished letter to President Donald Trump, which was obtained by POLITICO, urges Trump to abandon former President Barack Obama's pledge to cut U.S. emissions 26-28 percent below 2005 levels by 2025, arguing the target "would cause irreparable harm to our economy."

Trump's new pledge should showcase "the energy security, consumer, and emission benefits produced by the shale revolution and emphasize the importance of baseload power generation, including highly efficient and low emission coal-fired and nuclear power plants, to grid reliability," Cramer writes.

In addition, Cramer says the U.S. must no longer contribute to the Green Climate Fund, and "use its seat at the Paris table to defend and promote our commercial interests, including our manufacturing and fossil fuel sectors." The U.S. should work with other countries to help commercialize and deploy technologies to reduce emissions from fossil fuels, the letter says.

While it's unclear whether Trump will ultimately stay in the Paris agreement, Cramer's letter echoes the general approach being advocated by some of Trump's aides. But opponents of the agreement in the White House, including chief strategist Steve Bannon, could scuttle any effort to remain in the deal.

Cramer's staff is still in the process of getting signatures on the letter and the text could change before it's officially made public. A Cramer spokesperson did not immediately respond to a request for comment.

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Perry voices support for nuclear power, touts budget skills [Back](#)

By Darius Dixon | 04/25/2017 03:59 PM EDT

Keeping nuclear power on the electric grid serves a national security interest — and can justify moves by the federal government that override state authority, Energy Secretary Rick Perry said today.

"I was a very strong proponent of the 10th Amendment — thank you very much, we know how to run Texas," the former governor said at the Bloomberg New Energy Finance Summit in New York City, referring to the amendment that lays out federal authority limits. "Shoe is on the other foot — or the boot is on the other foot — now."

Maintaining around-the-clock baseload electricity is necessary for national security, said Perry, who has directed his staff to review federal policies that may be "forcing the premature retirement of baseload power plants."

"It is of our national security to have policies into place dealing with our nuclear energy that may have an effect on our ability to protect this country from a military standpoint," Perry said.

After going decades between building new nuclear power, he said, "the intellectual capability, the manufacturing capability, has been ... substantially impacted in a negative way."

Perry also said he'd able to manage DOE cuts proposed in last month's "skinny" budget.

"Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said, noting prioritizes for cybersecurity and supercomputing.

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FWS contender advocated for delisting and hunting grizzlies, wolves [Back](#)

By Esther Whieldon and Ben Lefebvre | 04/05/2017 06:48 PM EDT

A top contender to head the Interior's Fish and Wildlife Service advocated for the agency to remove the grey wolf and grizzly bear from the endangered species list and for using hunting to control wildlife populations.

Wyoming Game and Fish Department Director Scott Talbott is believed to be in the running to be nominated as director of the Interior's Fish and Wildlife Service and has garnered backing from Secretary Ryan Zinke, according to sources familiar with the situation.

If appointed FWS director, Talbott would oversee implementation of federal wildlife laws, including the Endangered Species Act, for the major infrastructure and land management projects across Interior's various agencies.

It's not yet clear if Talbott has the support of the White House. Spokeswoman Kelly Love in an email said "We have no personnel announcements to make at this time."

The White House has yet to nominate candidates for any of the top political positions at Interior or its nine bureaus. Zinke, who is himself an avid hunter and fisherman, voiced frustration this week about the slow pace of the vetting and final appointment decisions.

Talbott, a long-time employee of the Wyoming agency and its director since 2011, has argued that states are better suited than the federal government to manage wildlife conservation issues, particularly after a species has returned from the brink of extinction.

"The state clearly has the expertise to move forward with wolf management and grizzly bear management," Talbot said in a 2011 radio show.

"It is a shame that given the incredible accomplishments associated with grizzly bear recovery there has been such uproar over the consideration of a statement to support the use of regulated hunting as a possible management approach for grizzly populations that are recovered and delisted," Talbott said in a Montana newspaper editorial he co-authored in 2012.

Last year, FWS proposed delisting the grizzly bear in the Greater Yellowstone ecosystem given that its population had rebounded from about 136 bears in 1975 to about 700 bears. And the U.S. Court of Appeals for the District of Columbia Circuit in March upheld the agency's 2012 decision to take the grey wolf in Wyoming off the ESA list.

If President Donald Trump does nominate Talbott to lead FWS, it would likely raise the hackles of environmental groups like Defenders of Wildlife that have sued to maintain those ESA listings.

Talbott is not the only potential Interior nominee with a history involving endangered species issues. David Bernhardt, who was a member of Trump's Interior Department transition team and worked at Interior during the George W. Bush Administration, is reportedly high on the list of candidates for the Interior's deputy secretary position.

Bernhardt chairs the natural resources department at the lobby firm Brownstein Hyatt Farber Schreck, where he has represented a variety of energy and infrastructure industries including fossil fuel, wind and water interests, with an emphasis on Endangered Species Act issues.

As deputy secretary, Bernhardt would not only be responsible for managing day-to-day operations across those nine unique bureaus, but also could play a key role in implementing Zinke's initiatives on energy and other issues.

In his prior role as Interior solicitor, Bernhardt in a 2007 memo concluded that if a species is imperiled in a significant portion, but not all, of its range, it should be listed only in that portion. The Obama administration withdrew the opinion three years later and wrote its own version. But the U.S. District Court for the District of Arizona less than a week ago rejected the Obama administration's re-interpretation, leaving the Interior without a policy on the topic.

Talbott did not respond to a request for comment and Bernhardt declined to comment.

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Murphy's energy policy includes major commitment to offshore wind [Back](#)

By David Giambusso | 04/25/2017 05:26 PM EDT

Phil Murphy, the front-runner for the Democratic gubernatorial nomination, has laid out the beginnings of an energy policy that calls for a significant investment in offshore wind, as energy companies increasingly eye the New Jersey coast to develop the burgeoning industry.

Murphy has already locked up the support of the state's biggest environmental groups, and the contours of his energy policy will be laid out in an upcoming campaign announcement, which was previewed by POLITICO.

Murphy said he will begin to tackle the state's energy master plan, the guiding blueprint for New Jersey's energy policy, within his first 100 days as governor. Perhaps the most ambitious element will be a commitment to build 3,500 megawatts of offshore wind generation by 2030, or enough to power roughly 1.5 million homes.

"I am prepared to be a governor of action, who turns our state's thinking around, and who sets us on a future course to both do well and do good, and to prove that economic growth and environmental protection are not mutually exclusive," Murphy said in a statement.

Two prominent companies, U.S. Wind and DONG Energy, a Danish company, won leases to develop two wide swaths off the coast of New Jersey for wind generation. As the Trump administration pursues significant rollbacks of federal funding for clean energy, companies are looking to state policymakers for signs of investment in wind and solar.

"Those are welcome words to an industry eager to set into motion the plans needed to kick-start offshore wind projects along the east coast," said Lauren Burm, a spokeswoman for DONG Energy.

Murphy also plans to expand solar, specifically by establishing a community solar program, which would allow low-income, often urban residents, to join together as a purchasing bloc to gain more competitive prices and deploy solar energy in areas that are typically cumbersome to rooftop solar panels.

He also wants to prioritize storage, or the use of large-scale batteries that store renewable power for times of peak demand. The campaign set a goal of deploying 600 megawatts of storage by the end of his first term, and 2,000 megawatts by 2030. The overarching goal is for the state to be powered with 100 percent clean energy by 2050.

The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative, a regional cap and trade program Gov. Chris Christie, a Republican, pulled out of when he took office, saying it represented too much of a burden to ratepayers.

Christie's energy policy has focused almost exclusively on keeping costs low. That has meant an expansion of natural gas infrastructure and limits on investment in solar and wind. While solar is still strong in New Jersey, the state has dropped in national rankings for solar installation and energy efficiency.

Murphy's approach seeks to restore New Jersey's prominence as a clean energy leader. He said his programs are also designed to generate economic growth.

"We can base a new and stronger middle class on innovation and clean energy, and ensure all communities take part," he said.

The campaign calculates the state lost \$130 million in carbon auction revenues as a result of leaving RGGI which could have gone to research and investment in clean energy, efficiency and resiliency. Those investments could have generated 1,300 jobs and more than \$200 million in economic output, the Murphy campaign said.

Murphy also plans to restore the Office of Climate Change within the Department of Environmental Protection, which Christie shuttered when he took office.

Murphy is not the only Democratic candidate with an aggressive clean energy agenda. Sen. Ray Lesniak, Assemblyman John Wisniewski, and Jim Johnson have all stressed the need to promote clean energy and efficiency in a state that was battered by Hurricane Sandy and stands to suffer some of the worst effects of climate change in decades to come.

"We must listen to the scientific experts who know best how we should respond to the reality of a changing climate," Murphy said. "I will restore basic respect for climate science."

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NRDC's Goldston departs for MIT job [Back](#)

By Alex Guillén | 04/25/2017 02:49 PM EDT

David Goldston will leave the Natural Resources Defense Council next month after eight years as the environmental group's director of government affairs to become director of the Massachusetts Institute of Technology's Washington office, the school [announced](#) today.

Before joining the NRDC in 2009, Goldston was director of the Bipartisan Policy Center's Science and Policy Project. He previously served six years as chief of staff for the House Science Committee under Sherwood Boehlert (R-N.Y.).

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Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

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By Anthony Adragna | 04/26/2017 05:45 AM EDT

With help from Darius Dixon, Eric Wolff, Alex Guillén and Annie Snider

SHOWDOWN IN YUCCA-TOWN: Republicans have been beating the drum on the Yucca Mountain nuclear waste project practically since they took the House in the 2010 elections, and now the dog has caught the proverbial truck. Sen. Harry Reid has retired, a Republican is in the White House and backers of the nuclear waste project have real, live (draft) legislative text on trial today, demonstrating that years of House Energy and Commerce Committee hearings and feedback didn't stumble into a black hole. "This discussion draft reflects what we learned through those hearings, oversight activities and related work," Rep. John Shimkus, an E&C subcommittee chair who's been one of Congress' biggest Yucca-vangelists, will say, according to prepared remarks obtained by ME. "However, it is just that: a discussion draft. And today we start of process of taking input from all stakeholders on this draft."

Heller v. Shimkus: The bill, which includes language authorizing interim storage facilities and offers several olive branches to Nevada, is an acknowledgment that the project's situation requires more than simply flipping a hidden switch that might get the program on its feet. Yucca supporters can point to a 45-page document that bears out what Shimkus and his fellow Republicans have been thinking. But critics also now have a text to attack (ME shudders to think about the nuclear equivalent of Sen. Joe Manchin shooting a hole in the 2010 cap-and-trade bill?). Sen. Dean Heller, who is testifying on the first panel at today's hearing and is one of the few Republicans vulnerable in next year's elections, says the draft bill is "heavy-handed, federal government-only proposal to reinstate Yucca Mountain while making false promises to the residents of Nevada."

The deets: The first panel of today's hearing is stacked with Nevada lawmakers opposed to Yucca, including Heller, who was something of late addition. The second panel includes officials representing state regulators, and the nuclear energy industry, as well as Ward Sproat, who submitted Yucca Mountain's application to regulators in 2008. The hearing starts at 10 a.m. in Rayburn 2123.

MONUMENTAL CHANGE? President Donald Trump will late this morning sign an executive order at the Interior Department headquarters calling on Secretary Ryan Zinke to review the national monument designations made by the past three presidents, Pro's Esther Whieldon reports. Zinke will have 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation to Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act. The monument review will largely focus on two Utah monuments: President Barack Obama's designation last year of Bears Ears National monument and President Bill Clinton's protection of the Grand Staircase-Escalante National Monument back in 1996.

But the order will be noticeably silent on assertions of the scope of Trump's authority to revoke monuments. Zinke stressed his belief that presidents can revise the scope of monument designations, though no president has fully revoked the status for existing monuments entirely. Green groups and tribal advocates say they'll challenge any attempt by the Trump administration to change the footprint or eliminate existing monuments. More from Esther here.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and Van Ness Feldman LLP's R. Scott Nuzum was first to identify St. Louis as the host of America's first Olympics. For today: What former MLB baseball player, nicknamed "Vinegar Bend," went on to serve three terms in Congress? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

New! Day Ahead: POLITICO Pro's comprehensive rundown of the day's congressional schedule, including details on legislation, votes, as well as committee hearings and markups. Day Ahead arrives in your inbox each morning to prepare you for another busy day in Washington. Sign up to receive Day Ahead.

WHITEHOUSE REQUESTS PRUITT PROBE: Sen. Sheldon Whitehouse asked the U.S. Office of Special Counsel in a letter to investigate whether EPA Administrator Scott Pruitt would violate the Hatch Act if he follows through on his plan to headline an Oklahoma Republican Party fundraiser, Pro's Alex Guillén reports. Whitehouse also asked that OSC instruct Pruitt not to attend the event.

In response, EPA spokesman J.P. Freire told Alex the fundraising flier was a mistake and that Pruitt had sought to avoid a conflict: "We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements. We are working to fix this and ensure full compliance with the rules." The Oklahoma GOP did not return a request for comment last night.

Scotty don't: This handy Hatch Act guide from EPA's Office of General Counsel has a number of rules for what Pruitt can and can't do at political fundraisers. He can attend them, but cannot solicit contributions, let his name be used as a sponsor or host, or let himself be identified by more than his name on an invitation. If Pruitt is determined to attend, the guide does indicate he can serve drinks or check coats. Serving salmon puffs and bacon-wrapped scallops, however, appears to be a gray area.

TAKING CARBON STOCK: If fully implemented, Trump's policies on climate change mean that by 2025 the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year — more than the annual emissions from Germany — than under Obama's most ambitious target, Pro's Eric Wolff reports. Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute.

But wait a sec: Pennsylvania State University climate scientist Michael Mann said Obama's policies may be difficult to toss out thanks to the courts and resistant federal staffers. "Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us. Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated."

SHUTDOWN UPDATE: Congress still has much to work through if it hopes to avoid a government shutdown (or a short-term CR) on Friday, but energy and environmental issues don't appear to be the problem. Energy and Water subcommittee Chairman Lamar Alexander told reporters his portion of the spending package was "all done" though declined to comment on whether it included anything for Yucca. And Sen. Lisa Murkowski, who heads the Interior-EPA spending panel, said appropriators were "still working" on her portion of the package but that there were "not really" any controversial riders included in it.

Miners' benefits still a sticking point: Lawmakers are still seeking to fund health care benefits for retired coal miners in the government funding legislation, Pro Employment & Immigration's Marianne LeVine reports. "We want to help our miners," Senate Minority Leader Chuck Schumer said. Senate leadership favors a permanent fix, but the House is pushing for a shorter-term solution. McConnell said Tuesday "it's my hope" a permanent fix makes it into the final package.

That comes as 97 groups, including Earthjustice, the League of Conservation Voters and the Wilderness Society, wrote to congressional leaders Monday urging them to keep the emerging government funding bill free of "anti-environment, anti-science riders."

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PARIS PULLOUT SPLITS SENIOR REPUBLICANS: Like the Trump administration itself, the question of whether to abandon the Paris agreement has split senior Senate Republicans. Senate EPW Chairman John Barrasso reiterated his support for abandoning the deal altogether, while Sen. John Thune voiced openness to sticking with the deal, but trying to negotiate terms. "Maybe that's a good landing place, but I do think that we are not treated fairly relative to the countries in the world who create the most pollution," he told ME.

Murkowski 'agnostic': Murkowski called herself "agnostic" about what to do but also said she'd "suggested that maybe there are other things that we need to be doing and looking at as we're working to reduce our impacts." The comments from lawmakers come as 14 state attorneys general asked Trump to affirm U.S. support for the pact and as the White House rescheduled a meeting of principals for Thursday on what position to take on the deal.

And ME obtained a memo from two Competitive Enterprise Institute officials outlining potential options for Trump to meet his campaign vow to "cancel" the Paris Agreement. "President Trump has three principal options for keeping his campaign promise: withdraw from Paris only, withdraw from the UNFCCC, or seek Senate input," it said.

Miners deny Pruitt pushed: A National Mining Association spokesman strongly denied late Tuesday that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did. The group voted to push the Trump administration to exit the pact one day after the EPA administrator met with the group's leadership.

CRAMER LETTER READY TO ROLL: Rep. Kevin Cramer's long awaited letter to Trump in support of keeping the U.S. in the Paris climate agreement will be sent today, the North Dakota Republican told reporters last night. The letter is expected to advocate for reducing the U.S. commitment to the agreement, increasing support for emission-reducing technologies for fossil fuels, and stopping payments to the Green Climate Fund. Cramer said he has eight signatories, mostly from the Energy and Commerce Committee, and he hopes to add a few more before dropping the letter in the mail.

SENATE'S WOTUS TAKEDOWN: The Senate Environment and Public Works Committee dives deep into the technical details and regulatory process for the Obama administration's controversial water rule this morning, in an effort to help the Trump administration build the case for pulling it back.

The battle lines will be stark: On critics' side will be Michael Josselyn, the dissenting voice on an outside scientific review panel for the regulation, and Misha Tseytlin, Wisconsin's solicitor general. Defending the rule will be Ken Kopocis, the Obama administration's water chief, and Collin O'Mara, president of the National Wildlife Federation. Then there's a big wildcard: Maj. Gen. John Peabody, a retired top Army Corps officer who blasted the Obama rule in internal memos to his political boss, complaining that the Corps was cut out of the process, but also that changes made in the final 2015 rule required a more extensive environmental analysis because they stood to significantly retract federal protections over streams and wetlands.

BARRASSO EYES METHANE VOTE 'NEXT WEEK': Republican aides said they've yet to firmly lock down the requisite vote necessary to nullify a BLM regulation aimed at curbing methane emissions on public lands, but lawmakers are eyeing a vote in the coming days. "I expect to have a vote next week," Barrasso told reporters Tuesday. More than 110 local officials from Colorado, New Mexico, Idaho, Nevada, Wyoming, Utah and the Ute Mountain Tribe urged Congress not ax the regulation using the Congressional Review Act in a letter sent today.

HOEVEN HOPEFUL ON CCS MOVEMENT: It may seem like near-term opportunities to advance energy legislation are scarce, but Sen. John Hoeven told reporters Tuesday he's optimistic the Senate can pass legislation reforming and extending tax incentives for carbon capture and sequestration projects this session. "I think we'll get that passed this year," the North Dakota Republican said. "That's how you make carbon capture commercially viable." He noted Majority Leader Mitch McConnell has co-sponsored similar legislative efforts previously.

PERRY'S (NU)CLEAR THINKING: National security relies on having nuclear energy as a continuing part of the electric grid, and that justifies moves by the federal government that override state authority, Energy Secretary Rick Perry said Tuesday at Bloomberg New Energy Finance Summit in New York City. As Pro's Darius Dixon reports, the former Texas governor also vowed he's perfectly comfortable shepherding the DOE funding cuts sought by Trump.

"Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said.

UNDERSTANDING TWO-FOR-ONE ORDER: Venable LLP released [an FAQ guide](#) to understanding Trump's executive order requiring the elimination of two regulations for every new one issued (with some exemptions). It notes perhaps the "biggest challenge" surrounding the order will be developing the evidentiary record necessary to eliminate existing regulations, which "may require substantial investment in time and money that agencies and relevant stakeholders may not be able or want to undertake."

LAWSUIT FILED OVER RECORDS FOR LIKELY INTERIOR DEPUTY: The Western Values Project filed [a lawsuit](#) in federal court Tuesday seeking records related to David Bernhardt's tenure at Interior during the George W. Bush administration. "There shouldn't be any secrets about Mr. Bernhardt if he stands a chance of becoming one of the most powerful figures at Interior," Chris Saeger, the group's executive director, said in a statement. Bernhardt is [thought to be a leading contender](#) for a top agency position, including deputy secretary.

MAIL CALL! SAVE EPA REGION 5! Eight senators and 27 Democratic congressmen sent Pruitt [a letter](#) Tuesday urging him not to shutter EPA's Chicago-based regional office. "Region 5 does not duplicate enforcement or regulatory actions, rather Region 5 allows the EPA to better coordinate federal efforts with state and local governments," they wrote. The agency has strongly denied it was considering the option of closing the region. Sen. [Rob Portman](#) was the lone Republican to sign the letter.

STEADY BREEZE: Phil Murphy, the front-runner for the Democratic gubernatorial nomination in New Jersey, hopes to build 3,500 megawatts of offshore wind generation by 2030 as part of his energy policy, POLITICO New Jersey's David Giambusso [reports](#). That'd be enough to power roughly 1.5 million homes. The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative that Gov. Chris Christie left.

ENERGY PORTAL LAUNCHES: R Street and CRES Forum are today launching a new portal, [Energy Done Right](#), that explores energy and environmental issues from the right-of-center think tank community perspective.

MORE JOIN THE CLIMATE ARK: Freshmen Reps. [Mike Gallagher](#) and [Salud Carbajal](#) are the latest members of the bipartisan Climate Solutions Caucus.

MOVER, SHAKER: David Goldston leaves NRDC next month after eight years as the environmental group's director of government affairs to become director of the MIT's Washington office, Pro's Alex Guillén [reports](#).

QUICK HITS

- State Department Memo Boosts Case to Stay in Paris Climate Pact. [Bloomberg](#).
- Trump's plan to kill Energy Star could benefit his properties. [CNN](#).
- Can EPA Get the Lead Out Amid Deregulatory Fervor? [Bloomberg BNA](#).
- Most global investors recognize financial risk of climate change, report finds. [The Guardian](#).

— Quake raises new concerns about Atlantic Sunrise pipeline, but builders say safeguards built in. [Lancaster Online](#).

— Valero CEO expects Q2 biofuel costs to be 'a significant headwind'. [Reuters](#).

HAPPENING TODAY

7:30 a.m. — BakerHostetler's 28th Annual Legislative [Seminar](#), Hyatt Regency on Capitol Hill, 400 New Jersey Ave. NW

10:00 a.m. — "[A Review of the Technical, Scientific, and Legal Basis of the WOTUS \(Waters of the United States\) Rule](#)," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — "[H.R., the Nuclear Waste Policy Amendments Act of 2017](#)," House Energy and Commerce Environment Subcommittee, 2123 Rayburn

4:00 p.m. — Reps. Curbelo and Moulton deliver remarks at coastal sustainability briefing being hosted by the bipartisan Climate Solutions Caucus, 421 Cannon

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To view online:

<https://www.politicopro.com/tipsheets/morning-energy/2017/04/next-phase-of-nuclear-waste-debate-kicks-off-022531>

Stories from POLITICO Pro

Trump to order review of national monuments [Back](#)

By Esther Whieldon | 04/25/2017 09:02 PM EDT

President Donald Trump is set to order the review of tens of millions of acres of land and water set aside as national monuments by the past three presidents on Wednesday, a move that environmental groups warn will undermine a crucial conservation tool and open up sensitive areas to fossil fuel development.

The review will be conducted by Interior Secretary Ryan Zinke and will encompass the dozens of monuments created over the past 21 years, although the main focus will be on President Barack Obama's designation last year of Bears Ears National monument, as well as the Grand Staircase-Escalante National Monument protected by President Bill Clinton in 1996. Both of those are in Utah, and the state's lawmakers have pressed to revoke the monument status for the two sites, which are believed to hold fossil fuel resources.

But Zinke sought to quell concerns that the executive order would roll back conservation protections provided by 1906 Antiquities Act, saying the Trump's order "does not strip any monument ... or loosen any environmental conservation on any land or marine areas."

Yet environmental groups fear the review is a simply a pretense to unwind the federal protections in the future, since both Trump and Zinke have supported growing U.S. fossil fuel output.

The Antiquities Act is "one of our country's kind of bedrock conservation laws," said Daniel Ritzman, Sierra Club western public lands protection campaign director.

Sixteen different presidents have used the law "to protect some of our country's most special places. You know places like the Grand Canyon [National Park] started out out as a national monument," he said. "And it's not just our important landscapes that have been protected, it's also used to protect some unique American cultural sites, especially Native American cultural sites."

Presidents have also used the law to block off areas from fossil-fuel development, such as coal mining at Grand Staircase, but environmental and conservation groups worry those protections will be tossed aside as Trump looks for additional ways to unleash energy development on public lands and waters.

"This administration has made it clear that they're going to do the bidding of the oil and gas industry," said Jennifer Rokala, executive director of the Center for Western Priorities, a Colorado-based conservation group.

The order gives Zinke 45 days to file an interim recommendations, and 120 days to issue suggestions for legislation or for Trump to revoke or slim down the size of any monuments that cover 100,000 acres or more that were created under the Antiquities Act.

The order does not make any assertions as to the scope of Trump's authority to revoke monuments, Zinke said and he reiterated his belief that presidents can revise the scope of monument designations, though that the broader authority to delist monuments remains untested in courts.

While presidents have tweaked the size of their predecessor's monument designations — President Dwight D. Eisenhower, for example, reduced Colorado's Great Sand Dunes National Monument by 25 percent — none have fully revoked the status for existing monuments entirely. Environmental groups and tribal officials say they stand ready to sue over any attempts by Trump to change the footprint or eliminate existing monuments.

Obama used the power under the Antiquities Act to to protect more land than any previous president, from underwater canyons and mountains off Cape Cod to the vast Papahānaumokuākea Marine National Monument in the Pacific Ocean. His aggressive use of the Act drew scathing criticism from Republicans, who complained the White House abused the law to override local opposition and restrict development and usage of the lands.

Groups have already challenged two of Obama's monument designations, including a lawsuit by fisheries groups over the Northeast Canyons and Seamounts National Marine Monument off the East Coast, but neither of the cases address the scope of a president's authority to revoke a monument.

Meanwhile, the energy industry has been lobbying for access to more public lands — as well revisions to ease the environmental reviews and other permitting processes. The American Petroleum Institute in a January [letter to lawmakers](#) urged Congress to revamp the Antiquities Act, arguing the increasing use of the law presents "threats to responsible and balanced use of federal lands offshore and onshore."

"There's absolutely interest in developing oil and natural gas resources on public lands," said Erik Milito, API's director of upstream and industry operations.

"There's highly prospective areas for the industry and we've seen considerable development on state and private lands in the vicinity of public lands, which would demonstrate that there could be far greater opportunities if we had a more streamlined process and more opportunities by eliminating these types of obstacles to development."

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Pruitt to headline Oklahoma GOP gala [Back](#)

By Alex Guillén | 04/24/2017 10:52 AM EDT

EPA Administrator Scott Pruitt will headline the Oklahoma Republican Party's annual gala next week, according to an [event invitation](#).

"You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!" the invitation says.

It notes that Pruitt in just a few months has already "overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"

Pruitt was previously Oklahoma's attorney general. The event takes place on May 5 in Moore, Okla.

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Whitehouse alleges Pruitt fundraiser appearance violates Hatch Act [Back](#)

By Alex Guillén | 04/25/2017 07:24 PM EDT

Sen. [Sheldon Whitehouse](#) (D-R.I.) today alleged that EPA Administrator Scott Pruitt's upcoming headlining appearance at an Oklahoma Republican Party fundraiser violates the Hatch Act, the law prohibiting federal employees from partaking in many political activities.

Pruitt is [slated](#) to appear at the Oklahoma GOP's annual gala fundraiser on May 5, and the [invitation](#) promises that Pruitt will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

In a [letter](#) to the U.S. Office of Special Counsel, the independent agency that investigates these matters, Whitehouse argues that "the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee

will have special access to a federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act."

Whitehouse also asked that OSC instruct Pruitt not to attend the event.

EPA did not immediately return a request for comment.

Cabinet members have occasionally crossed a line on the Hatch Act, including last year, when then-Housing and Urban Development Secretary Julian Castro answered a question about the presidential race during an interview with Yahoo News. OSC in that instance did not recommend a punishment for Castro.

If OSC concludes the Hatch Act was violated by a presidential appointee, the matter is referred directly to the president for possible punishment or sanctions.

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EPA: Pruitt fundraiser appearance OK'd, but flier erred [Back](#)

By Alex Guillén | 04/25/2017 08:56 PM EDT

EPA says an invitation touting Administrator Scott Pruitt's appearance at a May 5 Oklahoma GOP fundraiser was an error and that Pruitt had worked to avoid a political conflict.

"We take very seriously the rules by which federal officials must participate in public events. We worked with our ethics office to ensure attendance at this event would comply with rules, and this flier unfortunately doesn't reflect those requirements," EPA spokesman J.P. Freire said in an email. "We are working to fix this and ensure full compliance with the rules."

Sen. [Sheldon Whitehouse](#) today [alleged](#) that the [invitation](#) to the Oklahoma GOP's annual gala fundraiser put Pruitt on the wrong side of the Hatch Act, the law limiting political activities by presidential appointees and other government officials.

The Hatch Act does not bar officials like Pruitt from attending political fundraisers, though there are restrictions, including on what Pruitt can say and a prohibition on organizers using a government officials' title to sell tickets. The invite, issued by the state Republican party, uses Pruitt's title and says he will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!"

Whitehouse has urged the U.S. Office of Special Counsel to investigate and bar Pruitt from attending the fundraiser.

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Trump's already making his mark on climate [Back](#)

By Eric Wolff | 04/25/2017 08:57 PM EDT

President Donald Trump's aggressive rollback of the Obama administration's climate policies is already changing the trajectory of the world's efforts on global warming, with some analysts

estimating it will mean billions more tons of greenhouse gases entering the atmosphere during the next decade and a half.

It could be one of the most durable legacies of his young presidency — regardless of whether Trump decides to withdraw the U.S. from the Paris climate agreement.

Trump has spent much of his first 100 days in office launching a series of efforts to undo former President Barack Obama's domestic climate policies, seeking to ease pollution limits on power plants, vehicle tailpipes, coal mining, and oil and gas wells. And while Democrats and environmental groups promise fierce resistance, analysts say Trump's efforts could bring an effective halt to U.S. efforts to cut the carbon pollution that scientists blame for warming the planet.

"This is an experiment we can only run once, and then it's too late," said Princeton University climate scientist Michael Oppenheimer. "We were in a lot of trouble with climate change already. This only makes it more risky. It's hard to quantify how much it matters, but it makes attainment of a difficult-to-achieve target more or less impossible."

The United States is the world's second-largest carbon polluter, but its greenhouse gas output has slid sharply in the past decade — a trend driven partly by increases in energy efficiency and a shift from coal to natural gas as a power source. Obama had pledged to continue those reductions in the coming decade to meet U.S. commitments in the 2015 Paris agreement, in which nearly 200 nations made non-binding promises to cut their carbon pollution. Hillary Clinton had promised even steeper reductions.

Trump, in contrast, has vowed to reverse Obama's policies, lift restrictions on the energy industry and "save our wonderful coal miners" — pledges that helped him win fossil fuel-producing swing states like Pennsylvania and Ohio.

And his actions will have a real-world effect, based on POLITICO's analysis of estimates from the Democratic-leaning consultant Rhodium Group and the World Resources Institute. Instead of falling, Rhodium's projection estimated that Trump's policies, if fully implemented, will cause U.S. carbon pollution to continue more or less at current levels. That means that by 2025, according to POLITICO's analysis, the U.S. would be pumping 900 more megatons of greenhouse gases into the atmosphere each year than under Obama's most ambitious target.

That extra U.S. carbon would exceed the annual output of Germany, one of the world's top greenhouse gas polluters. That would be enough to increase the world's annual carbon emissions by almost 2 percent, Pennsylvania State University climate scientist Michael Mann said — at a time when climate researchers say the world urgently needs to accelerate its cuts.

Through 2030, the cumulative gap between the Trump and Obama policies could exceed 4 billion metric tons of carbon dioxide, based on Rhodium's estimates.

In other words, Trump's domestic actions on energy would be his real contribution to global climate policy — a fact obscured by the noisy political fight on whether the U.S. should withdraw from Paris. The figures don't even account for the possibility that a U.S. retreat on climate efforts would cause other major polluters, such as China and India, to pull back on their commitments.

"If you're going after the Clean Power Plan and going after everything else and all the other rules, then whether or not you stay in Paris appears to be symbolic from the perspective of U.S.

emissions," said Andrew Light, a fellow at the World Resources Institute who worked for the State Department under Obama.

Rhodium based its analysis on a March 28 executive order in which Trump directed his agencies to take the first steps toward reversing some of Obama's most significant climate actions, including regulations on coal miners, oil and gas drillers, and thousands of power plants.

Trump and his appointees have made no secret of their disdain for Obama's attempts to rally the world on climate change, an issue the president has labeled a Chinese-inspired "hoax" that's wiped out American jobs. White House budget director Mick Mulvaney dismissed climate programs last month as "a waste of your money," telling reporters that "we're not spending money on that anymore."

Mulvaney was defending Trump's proposal for a 31-percent budget cut for the Environmental Protection Agency, whose carbon regulations on the power, auto, coal, oil and gas industries had provided the heart of Obama's climate policies.

Among other steps to erase Obama's climate legacy, Trump has ordered the EPA to begin unwinding Obama's 2015 regulations on greenhouse gases from power plants, moved toward easing the agency's vehicle fuel-efficiency requirements and signed off on Congress' repeal of stream-pollution restrictions that had threatened to hinder some coal mining activity. He is also due to take steps this week toward opening up vast new offshore regions for oil and gas production — a sharp break from the limits Obama imposed late in his second term.

More quietly, the administration has postponed Energy Department efficiency standards for commercial and consumer appliances such as freezers and boilers, withheld grants for research into next-generation energy technologies, and ordered the government to revise a metric called the "social cost of carbon" that seeks to factor the impacts of climate change into regulatory actions. Administration lawyers have also persuaded appellate judges to postpone rulings on several Obama-era rules facing industry challenges, giving Trump's agencies more time to pull them back for reworking.

Rhodium's analysis of the effect of Trump's executive order comes with plenty of caveats: It assumes that cities and states will fail to fill the gap in federal policy, and that a climate advocate will not take over the White House in 2020. It also does not allow for faster-than-expected advances in renewable energy technologies — notably battery storage — that could accelerate the shift to wind and solar power.

But Rhodium also doesn't include other measures that Trump could take, such as reneging on a 2016 treaty to limit the production of potent greenhouse gases known as hydrofluorocarbons. That agreement by itself could forestall 0.5 degrees Celsius in global warming during this century, according to U.N. estimates. The Paris agreement is meant to prevent the rise in average global temperatures from exceeding 2 degrees Celsius above pre-industrial levels.

Rhodium's partners include Trevor Houser, who was a top outside adviser to the Clinton campaign on energy issues.

Climate researchers say the world is so close to a tipping point that any backsliding would be dangerous.

For example, carbon dioxide levels in the Earth's atmosphere have been hovering above 405 parts per million since November, the highest on record, according to the National Oceanic and

Atmospheric Administration — significantly higher than the 350-parts-per-million level that some leading climate researchers say the world needs to move back to. The estimated change in emissions allowed by Trump's executive order would add 2 parts per million in the next 20 years, according to a rough estimate by Pieter Tans, chief of the Carbon Cycle Greenhouse Gases Group at the NOAA Earth Science Research Laboratory.

Put another way, those extra emissions alone would move the world 4 percent closer to 450 parts per million — the point at which the world still has a better-than-50-percent chance of stabilizing global temperatures, according to the Organization for Economic Cooperation and Development. Failing to stabilize temperatures would could mean intensifying extreme weather events at "unprecedented levels," the OECD says. It could also move the world to a point where temperature and emissions feedback loops make changes in the world's climate change irreversible.

"Thus far, we human beings have mostly controlled climate change through emissions of greenhouse gases," Tans said in an email. "Continuing on this path will likely lead to uncontrolled and potentially very large emissions of [carbon dioxide] and [methane] from the melting of permafrost in the Arctic, to name one plausible feedback effect."

Still, some advocates for deep cuts in carbon emissions, such as Mann, hold out hope that Obama's policies will prove difficult to uproot. They're counting on the courts and resistant federal staffers to stall Trump's plans.

"Bureaucracy can be both a good and bad thing, depending on the circumstances," Mann said in an email. "In this case, I think it may save us.

"Were Democrats to win back one or both houses of Congress in the mid-terms less than two years away, I think that much of the damage could almost certainly be mitigated," he added.

Skeptics of Obama's policies argue that the U.S. would absorb most of the pain of the Paris agreement while countries such as China and India — the world's biggest and fourth-biggest carbon polluters, respectively — would get off easy. Both countries are expected to produce more carbon dioxide in 2030 than they did in 2015.

"The Obama administration made really ambitious commitments in Paris with no clear way to get there under current regulations," said Robert Dillon, an energy expert with the American Council for Capital Formation, who contends that Trump's decision to ease off on Obama's carbon rules puts the U.S. on a level playing field.

"Any time you have a concern where you're tying one hand behind your back to compete in the global market, there are legitimate concerns about how the country remains competitive and improves the standard of living for American families," he added.

Meanwhile, Trump's rollback puts pressure on other countries to decide how to respond. The U.S. already buted heads with other G-7 nations this month when Energy Secretary Rick Perry's insistence that the Paris agreement should not be mentioned scuttled a joint communique.

Some foreign leaders are choosing to be optimistic, for now.

"I don't see the world backing off," Swedish Deputy Prime Minister Isabella Lövin told reporters last week in Washington. Instead she expressed concern about the next stage of the Paris agreement, which calls for nations to further cut their greenhouse gases.

"We are concerned that some might point to the U.S. and say, 'We don't have to raise ambitions now if the U.S. is not going to take part of this,'" she said. "And the U.S., of course, has a great responsibility for the historic emissions. That makes it a really bad chase to the bottom."

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Schumer, McConnell: We're trying to find a solution for miners [Back](#)

By Marianne LeVine | 04/25/2017 03:26 PM EDT

Senate Minority Leader [Chuck Schumer](#) said today that finding a solution to fund health care benefits for retired coal miners remains an "outstanding" issue in funding negotiations.

"We want to help our miners," Schumer said.

Lawmakers are expected to include some provision in this week's appropriation bill to shore up miners' health benefits. Senate leadership favors a permanent solution, but House leadership wants a shorter-term fix.

Senate Majority Leader [Mitch McConnell](#) reiterated today that he is "in favor of a permanent fix on miners' health care."

"It's my hope that that will be included in the final package," McConnell said.

Jennifer Scholtes contributed to this report.

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Trump advisers' meeting on Paris deal reset for Thursday [Back](#)

By Andrew Restuccia and Josh Dawsey | 04/25/2017 03:25 PM EDT

The Trump administration has rescheduled a meeting of senior advisers to hash out internal divisions over the Paris climate change agreement for Thursday, two administration officials told POLITICO.

The meeting could help decide the fate of the United States' involvement in the accord, which won the support of nearly 200 nations in Paris in 2015. Trump's advisers hope to make a recommendation to the president about how he should proceed.

Several of Trump's close advisers and Cabinet secretaries, including Jared Kushner and Secretary of State Rex Tillerson, are said to support staying in the deal. But chief strategist Steve Bannon and EPA Administrator Scott Pruitt strongly oppose the pact and have been privately making the case that the U.S. should withdraw.

While the list of attendees is unclear, Tillerson, Bannon, Kushner, National Economic Council Director Gary Cohn, national security adviser H.R. McMaster and Energy Secretary Rick Perry are expected to be at the meeting.

The meeting had been [scheduled](#) to take place last week, but it was postponed because several Trump advisers traveled with the president to Wisconsin.

Trump's advisers and energy industry officials have been engaged in a months-long behind-the-scenes effort to sway the president. Aides who support staying in the deal have argued Trump could still achieve his policy goals, with less international blowback, by weakening Obama's pollution-reduction targets while trying to negotiate greater global support for fossil fuels. They've won the support of several energy companies, including a few major coal producers.

Meanwhile, Republicans in Congress and hard-line conservatives have argued that the president must withdraw altogether, noting that Trump promised during the campaign to cancel the agreement.

Trump is expected to make a final decision by late May, when he'll travel to Italy to participate in a G-7 meeting.

A White House spokeswoman did not immediately respond to a request for comment.

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Mining group to support pulling out of Paris after meeting with Pruitt [Back](#)

By Andrew Restuccia | 04/25/2017 04:07 PM EDT

A coal mining industry group's board of directors voted on Tuesday to press President Donald Trump to withdraw from the Paris climate change agreement — just one day after EPA Administrator Scott Pruitt met with the group's leadership to discuss the accord, two sources told POLITICO.

Pruitt personally attended a meeting of the National Mining Association's executive committee on Monday to lay out his concerns with the Paris accord.

A National Mining Association spokesman strongly denied that Pruitt urged the group to publicly support pulling out of the agreement, despite a source telling POLITICO that he did.

Trump has often aligned himself with coal miners, promising to revive the industry that has suffered sharp job losses over the past decade as the U.S. appetite for the energy source has waned. Just last month, Trump went to the EPA's headquarters with a group of coal miners to sign an executive order rolling back President Barack Obama's regulation curbing carbon emissions from power plants.

Pruitt has emerged in recent weeks as one of the administration's leading critics of the 2015 Paris deal, calling it a "bad deal for America" in a recent interview. An EPA spokesman confirmed Pruitt attended the NMA meeting, saying that he "discussed the problems with the Paris agreement."

The NMA board's decision is the latest evidence of the split within the coal industry over the Paris deal. Several major coal companies have signaled their openness to the U.S. remaining in the Paris agreement if the White House can negotiate more global support for technology that would reduce the carbon footprint of coal.

But other coal companies, including Murray Energy, which is led by Trump supporter Robert Murray, are vociferously opposed to the accord, which has won the backing of nearly 200 nations.

The NMA vote was 26-5, with some members abstaining, according to one source.

The NMA board's decision to weigh in raises the stakes in the behind-the-scenes standoff within the White House over the international climate accord. Several White House aides, including senior adviser Jared Kushner, are said to be in favor of remaining in the agreement, while chief strategist Steve Bannon supports withdrawing.

White House aides who want to remain in the pact have sought to build support among energy companies in recent weeks. But several Republicans and industry groups have launched a counter-offensive to increase momentum for exiting the agreement. Sen. John Barrasso distributed a document arguing for leaving the Paris agreement at a Tuesday policy lunch with Senate Republicans.

Trump's top advisers are set to meet on Thursday in hopes of making a formal recommendation to President Donald Trump. Trump is expected to decide whether to stick with the accord before the G-7 summit at the end of May.

NMA is still writing its statement urging a Paris withdrawal and it's unclear when it will be sent to the White House, one source said.

This story has been updated to add a statement from the National Mining Association.

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Cramer floats conditions to stay in Paris deal [Back](#)

By Andrew Restuccia | 03/23/2017 04:30 PM EDT

Republican Rep. [Kevin Cramer](#) is circulating a letter that lays out conditions for the United States to stay in the Paris climate change agreement.

The previously unpublished letter to President Donald Trump, which was obtained by POLITICO, urges Trump to abandon former President Barack Obama's pledge to cut U.S. emissions 26-28 percent below 2005 levels by 2025, arguing the target "would cause irreparable harm to our economy."

Trump's new pledge should showcase "the energy security, consumer, and emission benefits produced by the shale revolution and emphasize the importance of baseload power generation, including highly efficient and low emission coal-fired and nuclear power plants, to grid reliability," Cramer writes.

In addition, Cramer says the U.S. must no longer contribute to the Green Climate Fund, and "use its seat at the Paris table to defend and promote our commercial interests, including our manufacturing and fossil fuel sectors." The U.S. should work with other countries to help commercialize and deploy technologies to reduce emissions from fossil fuels, the letter says.

While it's unclear whether Trump will ultimately stay in the Paris agreement, Cramer's letter echoes the general approach being advocated by some of Trump's aides. But opponents of the agreement in the White House, including chief strategist Steve Bannon, could scuttle any effort to remain in the deal.

Cramer's staff is still in the process of getting signatures on the letter and the text could change before it's officially made public. A Cramer spokesperson did not immediately respond to a request for comment.

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Perry voices support for nuclear power, touts budget skills [Back](#)

By Darius Dixon | 04/25/2017 03:59 PM EDT

Keeping nuclear power on the electric grid serves a national security interest — and can justify moves by the federal government that override state authority, Energy Secretary Rick Perry said today.

"I was a very strong proponent of the 10th Amendment — thank you very much, we know how to run Texas," the former governor said at the Bloomberg New Energy Finance Summit in New York City, referring to the amendment that lays out federal authority limits. "Shoe is on the other foot — or the boot is on the other foot — now."

Maintaining around-the-clock baseload electricity is necessary for national security, said Perry, who has directed his staff to review federal policies that may be "forcing the premature retirement of baseload power plants."

"It is of our national security to have policies into place dealing with our nuclear energy that may have an effect on our ability to protect this country from a military standpoint," Perry said.

After going decades between building new nuclear power, he said, "the intellectual capability, the manufacturing capability, has been ... substantially impacted in a negative way."

Perry also said he'd able to manage DOE cuts proposed in last month's "skinny" budget.

"Thirty billion dollars, and 16,000 employees with 100,000 contractors may cause some people to break out in a cold sweat. It does not do that to me," he said, noting prioritizes for cybersecurity and supercomputing.

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FWS contender advocated for delisting and hunting grizzlies, wolves [Back](#)

By Esther Whieldon and Ben Lefebvre | 04/05/2017 06:48 PM EDT

A top contender to head the Interior's Fish and Wildlife Service advocated for the agency to remove the grey wolf and grizzly bear from the endangered species list and for using hunting to control wildlife populations.

Wyoming Game and Fish Department Director Scott Talbott is believed to be in the running to be nominated as director of the Interior's Fish and Wildlife Service and has garnered backing from Secretary Ryan Zinke, according to sources familiar with the situation.

If appointed FWS director, Talbott would oversee implementation of federal wildlife laws, including the Endangered Species Act, for the major infrastructure and land management projects across Interior's various agencies.

It's not yet clear if Talbott has the support of the White House. Spokeswoman Kelly Love in an email said "We have no personnel announcements to make at this time."

The White House has yet to nominate candidates for any of the top political positions at Interior or its nine bureaus. Zinke, who is himself an avid hunter and fisherman, voiced frustration this week about the slow pace of the vetting and final appointment decisions.

Talbott, a long-time employee of the Wyoming agency and its director since 2011, has argued that states are better suited than the federal government to manage wildlife conservation issues, particularly after a species has returned from the brink of extinction.

"The state clearly has the expertise to move forward with wolf management and grizzly bear management," Talbot said in a 2011 radio show.

"It is a shame that given the incredible accomplishments associated with grizzly bear recovery there has been such uproar over the consideration of a statement to support the use of regulated hunting as a possible management approach for grizzly populations that are recovered and delisted," Talbott said in a Montana newspaper editorial he co-authored in 2012.

Last year, FWS proposed delisting the grizzly bear in the Greater Yellowstone ecosystem given that its population had rebounded from about 136 bears in 1975 to about 700 bears. And the U.S. Court of Appeals for the District of Columbia Circuit in March upheld the agency's 2012 decision to take the grey wolf in Wyoming off the ESA list.

If President Donald Trump does nominate Talbott to lead FWS, it would likely raise the hackles of environmental groups like Defenders of Wildlife that have sued to maintain those ESA listings.

Talbott is not the only potential Interior nominee with a history involving endangered species issues. David Bernhardt, who was a member of Trump's Interior Department transition team and worked at Interior during the George W. Bush Administration, is reportedly high on the list of candidates for the Interior's deputy secretary position.

Bernhardt chairs the natural resources department at the lobby firm Brownstein Hyatt Farber Schreck, where he has represented a variety of energy and infrastructure industries including fossil fuel, wind and water interests, with an emphasis on Endangered Species Act issues.

As deputy secretary, Bernhardt would not only be responsible for managing day-to-day operations across those nine unique bureaus, but also could play a key role in implementing Zinke's initiatives on energy and other issues.

In his prior role as Interior solicitor, Bernhardt in a 2007 memo concluded that if a species is imperiled in a significant portion, but not all, of its range, it should be listed only in that portion. The Obama administration withdrew the opinion three years later and wrote its own version. But the U.S. District Court for the District of Arizona less than a week ago rejected the Obama administration's re-interpretation, leaving the Interior without a policy on the topic.

Talbott did not respond to a request for comment and Bernhardt declined to comment.

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Murphy's energy policy includes major commitment to offshore wind [Back](#)

By David Giambusso | 04/25/2017 05:26 PM EDT

Phil Murphy, the front-runner for the Democratic gubernatorial nomination, has laid out the beginnings of an energy policy that calls for a significant investment in offshore wind, as energy companies increasingly eye the New Jersey coast to develop the burgeoning industry.

Murphy has already locked up the support of the state's biggest environmental groups, and the contours of his energy policy will be laid out in an upcoming campaign announcement, which was previewed by POLITICO.

Murphy said he will begin to tackle the state's energy master plan, the guiding blueprint for New Jersey's energy policy, within his first 100 days as governor. Perhaps the most ambitious element will be a commitment to build 3,500 megawatts of offshore wind generation by 2030, or enough to power roughly 1.5 million homes.

"I am prepared to be a governor of action, who turns our state's thinking around, and who sets us on a future course to both do well and do good, and to prove that economic growth and environmental protection are not mutually exclusive," Murphy said in a statement.

Two prominent companies, U.S. Wind and DONG Energy, a Danish company, won leases to develop two wide swaths off the coast of New Jersey for wind generation. As the Trump administration pursues significant rollbacks of federal funding for clean energy, companies are looking to state policymakers for signs of investment in wind and solar.

"Those are welcome words to an industry eager to set into motion the plans needed to kick-start offshore wind projects along the east coast," said Lauren Burm, a spokeswoman for DONG Energy.

Murphy also plans to expand solar, specifically by establishing a community solar program, which would allow low-income, often urban residents, to join together as a purchasing bloc to gain more competitive prices and deploy solar energy in areas that are typically cumbersome to rooftop solar panels.

He also wants to prioritize storage, or the use of large-scale batteries that store renewable power for times of peak demand. The campaign set a goal of deploying 600 megawatts of storage by the end of his first term, and 2,000 megawatts by 2030. The overarching goal is for the state to be powered with 100 percent clean energy by 2050.

The former U.S. Ambassador to Germany and Goldman Sachs executive has previously said he would immediately rejoin the Regional Greenhouse Gas Initiative, a regional cap and trade program Gov. Chris Christie, a Republican, pulled out of when he took office, saying it represented too much of a burden to ratepayers.

Christie's energy policy has focused almost exclusively on keeping costs low. That has meant an expansion of natural gas infrastructure and limits on investment in solar and wind. While solar is still strong in New Jersey, the state has dropped in national rankings for solar installation and energy efficiency.

Murphy's approach seeks to restore New Jersey's prominence as a clean energy leader. He said his programs are also designed to generate economic growth.

"We can base a new and stronger middle class on innovation and clean energy, and ensure all communities take part," he said.

The campaign calculates the state lost \$130 million in carbon auction revenues as a result of leaving RGGI which could have gone to research and investment in clean energy, efficiency and resiliency. Those investments could have generated 1,300 jobs and more than \$200 million in economic output, the Murphy campaign said.

Murphy also plans to restore the Office of Climate Change within the Department of Environmental Protection, which Christie shuttered when he took office.

Murphy is not the only Democratic candidate with an aggressive clean energy agenda. Sen. Ray Lesniak, Assemblyman John Wisniewski, and Jim Johnson have all stressed the need to promote clean energy and efficiency in a state that was battered by Hurricane Sandy and stands to suffer some of the worst effects of climate change in decades to come.

"We must listen to the scientific experts who know best how we should respond to the reality of a changing climate," Murphy said. "I will restore basic respect for climate science."

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NRDC's Goldston departs for MIT job [Back](#)

By Alex Guillén | 04/25/2017 02:49 PM EDT

David Goldston will leave the Natural Resources Defense Council next month after eight years as the environmental group's director of government affairs to become director of the Massachusetts Institute of Technology's Washington office, the school [announced](#) today.

Before joining the NRDC in 2009, Goldston was director of the Bipartisan Policy Center's Science and Policy Project. He previously served six years as chief of staff for the House Science Committee under Sherwood Boehlert (R-N.Y.).

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Not at all

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POLITICOPRO

**This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd.
Arlington, VA, 22209, USA**

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 4/25/2017 11:58:35 PM
To: Enderle, Emily (Whitehouse) [Emily_Enderle@whitehouse.senate.gov]
CC: Gaeta, Joe (Whitehouse) [Joe_Gaeta@whitehouse.senate.gov]
Subject: RE: RELEASE: Whitehouse Files Hatch Act Complaint Over Pruitt Participation in OK GOP Fundraiser

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Enderle, Emily (Whitehouse) [mailto:Emily_Enderle@whitehouse.senate.gov]
Sent: Tuesday, April 25, 2017 6:16 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gaeta, Joe (Whitehouse) <Joe_Gaeta@whitehouse.senate.gov>
Subject: FW: RELEASE: Whitehouse Files Hatch Act Complaint Over Pruitt Participation in OK GOP Fundraiser

Hey Ryan – Just wanted to flag this for you.

From: Davidson, Richard (Whitehouse)
Sent: Tuesday, April 25, 2017 6:12 PM
To: Davidson, Richard (Whitehouse) <Richard_Davidson@whitehouse.senate.gov>
Subject: RELEASE: Whitehouse Files Hatch Act Complaint Over Pruitt Participation in OK GOP Fundraiser

FOR IMMEDIATE RELEASE
April 25, 2017

Contact: Rich Davidson
(202) 228-6291 (press office)

Whitehouse Files Hatch Act Complaint Over Pruitt Participation in Oklahoma GOP Fundraiser

Washington, DC – U.S. Senator Sheldon Whitehouse, a member of the Senate Environment and Public Works Committee, filed a complaint today with the U.S. Office of Special Counsel concerning a potential violation on the part Environmental Protection Agency Administrator Scott Pruitt of the Hatch Act, the federal law limiting political activities of federal employees. The complaint stems from an invitation to a May 5 Oklahoma Republican Party fundraiser distributed this week, where Pruitt is set to deliver the keynote address. The invitation makes numerous references to Pruitt's status as Administrator and his actions thus far—a brand of political promotion prohibited by the Hatch Act.

In the complaint, Whitehouse writes, “the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act.”

The Hatch Act, officially known as the Act to Prevent Pernicious Political Activity, bars executive branch employees from using their “official authority or influence for the purpose of interfering with or affecting the result of an election,” including “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” Specifically, the law prohibits executive employees from allowing their “official title to be used in connection with fundraising activities.”

“Make sure to purchase your Gala tickets so you don’t miss out on Administrator Pruitt’s future plans and how he will continue to Drain the Swamp!” the invitation reads. “This is a once in a lifetime opportunity, so buy your tickets before they sell out!”

In addition to a full investigation, Whitehouse requests that Pruitt not be allowed to attend the fundraiser.

“In light of fact that the OKGOP’s promotional materials have already promised donors special access to a federal employee in exchange for a political contribution, anything short of prohibiting his attendance will not change, in the public’s perception, that the OKGOP’s Gala is a ‘pay-to-play’ event with a federal Cabinet official,” the complaint reads.

Full text of the complaint is below. A PDF copy is available [here](#).

April 25, 2017

The Honorable Carolyn Lerner
Special Counsel
Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, D.C. 20036-4505

Dear Ms. Lerner:

Pursuant to 5 U.S.C. § 1216, I submit the following as a complaint and respectfully request the Office of Special Counsel (OSC) investigate whether Scott Pruitt, Administrator of the Environmental Protection Agency (EPA), violated the Hatch Act by agreeing to appear as the Keynote Speaker at the Oklahoma Republican Party (OKGOP) “Gala” on May 5, 2017. Administrator Pruitt’s featured participation in an event to raise money for the Oklahoma Republican Party is likely political activity prohibited by the Act.

Factual Background

On February 17, 2017, Scott Pruitt was sworn in as Administrator of the EPA. Pruitt was nominated for the position while serving his second term as the Republican Attorney General of the State of Oklahoma. Prior to that, Pruitt served as a Republican member of the Oklahoma State Senate from 1998 to 2006.

On April 24, 2017, it was first reported by *Politico* that Pruitt would be the “Keynote Speaker” at the May 5, 2017, OKGOP Gala.^[1] The invitation, attached as Exhibit A,^[2] included the following text:

The OKGOP is proud to announce that EPA Administrator Scott Pruitt will be the Keynote Speaker at this year’s Oklahoma Republican Party Gala!

During his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA “originalism.”

^[1] <https://www.politicopro.com/energy/whiteboard/2017/04/pruitt-to-headline-oklahoma-gop-gala-086639>.

^[2] An electronic version of the invitation is available at: <http://mailchi.mp/okgop/scott-pruitt-confirmed-to-speak-at-okgop-convention>.

You do not want to miss Pruitt at this year's OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!

Make sure to purchase your Gala tickets so you don't miss out on Administrator Pruitt's future plans and how he will continue to Drain the Swamp! This is a once in a lifetime opportunity, so buy your tickets before they sell out!

The invitation appears to include a photograph of Pruitt being sworn in as Administrator by Supreme Court Justice Samuel Alito,^[3] and contains the link "Click Here to Buy Gala Tickets!" The electronic version also contains an image noting "Sponsorship Levels" ranging from \$2,000 to \$5,000, and setting the price of the dinner at \$100, with a "VIP reception" costing an additional \$50.

Pruitt has a long track record of making direct political solicitations, participating in political fundraising events, and chairing the boards of political organizations like the section 527 Republican Attorney Generals Association (RAGA) and its associated 501(c)(4) organization, the Rule of Law Defense Fund (RLDF). These activities frequently involved industries he now regulates as EPA Administrator.

Devon Energy and Koch Industries are regulated by EPA and have supported the OKGOP, Scott Pruitt, and RAGA. During the 2010 and 2014 election cycles, Devon Energy and Koch Industries maxed out to Pruitt's campaign.^[4] From 2014 to 2016, Pruitt was a Member of the RAGA Executive Committee when it raised \$530,000 from Koch Industries and \$125,000 from Devon Energy.^[5] Koch Industries has contributed \$5,000 to the OKGOP.^[6] J. Larry Nichols, co-founder and director of Devon Energy from 1971 to 2016, has given the OKGOP \$30,500.^[7]

RLDF, a 501(c)(4) organization, does not have to disclose its donors but public reporting has shown that it received at least \$175,000 from Freedom Partners, a 501(c)(6) organization run by several Koch Industries executives.^[8] As recently as February 28, 2017, Pruitt was a speaker at the RAGA major donors dinner.^[9]

Thanks to Pulitzer Prize winning reporting by the *New York Times*, the public knows that contributing to Pruitt's political causes is a good investment. For example, in 2011, he took a letter written by Devon Energy, put it on Oklahoma Attorney General letterhead, signed it, and sent it to EPA pleading Devon's case. According to the *New York Times*' analysis of the 1,016 words that Devon proposed, only 37 were changed.^[10]

During his confirmation process, several Senators, including me, sought further information from Pruitt about his political and financial connections in an effort to determine what conflicts of interest he would bring to his

^[3] Compare Exhibit A with Dave Boyer, "Scott Pruitt sworn in as EPA administrator," *The Washington Times*, February 17, 2017, available at <http://www.washingtontimes.com/news/2017/feb/17/scott-pruitt-sworn-in-as-epa-administrator/> (accessed on April 25, 2017).

^[4] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[5] Center for Media and Democracy, "RAGA Fossil Fuel Funders 2014-2016," January 6, 2017.

^[6] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[7] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[8] Elena Schor, "Democrats press EPA pick Pruitt on energy sector ties: A nonprofit he helps lead accepted \$175,000 from a central arm of the Koch brothers' network," *Politico*, December 27, 2016, available at <http://www.politico.com/story/2016/12/congress-democrats-epa-pruitt-232989>.

^[9] "Senators Question Timing of EPA Action Following Industry Meeting," April 14, 2017, available at <https://www.whitehouse.gov/imo/media/doc/2017-04-14%20Letter%20to%20Pruitt%20on%20ICR.pdf>.

^[10] Eric Lipton, "Energy Firms in Secretive Alliance With Attorneys General," *New York Times*, December 6, 2014, available at <https://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html>.

role as Administrator.^[11] Pruitt stonewalled those efforts.^[12] As a result, we now have an Administrator with potentially wide-ranging conflicts of interest related to his federal position. As discussed in greater detail below, the facts related to the May 5 OKGOP Gala appear to be a continuation of Pruitt's troubling conflation of official and political activity, now in violation of federal law.

Legal Analysis

The Hatch Act places limitations on the ability of executive branch employees to participate in political activities. An executive branch employee is prohibited from using "his official authority or influence for the purpose of interfering with or affecting the result of an election."^[13] That prohibition extends to an employee "[u]sing his or her official title while participating in political activity,"^[14] where "political activity" is defined as "an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group."^[15]

More specifically, an employee may not "[a]llow his or her official title to be used in connection with fundraising activities."^[16] According to OSC guidance, an employee "is allowed to give a speech or keynote address at a political fundraiser, as long as he or she is not on duty, appears only in his or her personal capacity, and does not solicit political contributions."^[17] Furthermore,

[a]n employee's name may appear on an invitation to a political fundraiser as a guest speaker as long as the reference in no way suggests that the employee solicits or encourages contributions.... However, the employee's official title may not appear on invitations to any political fundraiser, except that an employee who is ordinarily addressed using a general term of address, such as "The Honorable," may use or permit the use of that term of address for such purposes.^[18]

The May 5 invitation contains representations that on their face make out a violation of the Hatch Act.

- His official title appears, or is referenced, at least three times.
- The invitation is for a political fundraiser, with sponsorship levels ranging from \$2,000 to \$5,000, dinner for \$100, and special "VIP" access for an additional \$50.
- The invitation uses Pruitt's official actions to promote the Gala, noting how "[d]uring his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA 'originalism.'"
- The invitation directly ties Pruitt's speech to his official activities, stating that he will discuss "his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA."

^[11] EPW Members Call on Pruitt to Reveal Connections to Secretive Group Coordinating EPA Challenges, available at <https://www.whitehouse.senate.gov/news/release/epw-members-call-on-pruitt-to-reveal-connections-to-secretive-group-coordinating-epa-challenges>, December 28, 2016; Questions for Oklahoma Attorney General Scott Pruitt from Senator Tom Carper, available at https://www.carper.senate.gov/public/_cache/files/2a41152c-395c-4b3f-864e-630474ba1ddc/senator-carper-preliminary-questions-for-epa-nominee-scott-pruitt.pdf, December 28, 2016.

^[12] Whitehouse Slams Pruitt's Evasive Responses to Post-Hearing Questions, available at <https://www.whitehouse.senate.gov/news/release/whitehouse-slams-pruitts-evasive-responses-to-post-hearing-questions>, January 26, 2017.

^[13] 5 U.S.C. § 7323(a)(1)

^[14] 5 C.F.R. § 734.302(b)(1)

^[15] 5 C.F.R. § 734.101

^[16] 5 C.F.R. § 734.303

^[17] "Hatch Act: Federal FAQs," Office of Special Counsel, <https://osc.gov/Pages/HatchAct-FAQs.aspx> (accessed April 25, 2017).

^[18] 5 C.F.R. § 734.208(d) Example 2.

- The invitation explicitly connects purchasing Gala tickets to the opportunity to hear about official government activities, like Pruitt’s “future plans and how he will continue to Drain the Swamp!” calling the Gala a “once in a lifetime opportunity.”

In short, the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to a federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act.

Other considerations

Pruitt has been Administrator of the EPA for over two months and should be presumed to have been advised of his responsibilities under the Hatch Act. He is not new to the world of Oklahoma politics and political fundraising. He should have known that the OKGOP Gala was a political fundraiser and that his participation as a keynote speaker would be used by the Oklahoma Republican Party to promote the event and increase donations. That, combined with Pruitt’s long history of political solicitation from industries he now regulates, and stonewalling of congressional and other public inquiries into his ties to those industries, suggests a pattern of behavior that warrants close scrutiny by your office.

Conclusion

The Hatch Act protects the integrity and impartiality of the federal government by preventing officials like Administrator Pruitt from engaging in political activity in their official capacities. The facts here appear to be a blatant violation of the Act. As an initial matter, I urge you to take quick action to ameliorate some of the harm already done. The OKGOP Gala has not yet occurred, so Administrator Pruitt should be instructed not to attend. In light of the fact that the OKGOP’s promotional materials have already promised donors special access to a federal employee in exchange for a political contribution, anything short of prohibiting his attendance will not change, in the public’s perception, that the OKGOP’s Gala is a “pay-to-play” event with a federal Cabinet official.

Prompt action to prevent further harm is necessary here but not sufficient. I further urge you to conduct a full investigation into the facts and circumstances of this matter and take all appropriate disciplinary action against Administrator Pruitt.

###

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Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 4/25/2017 11:50:38 PM
To: Freire, JP [Freire.JP@epa.gov]
CC: Ferguson, Lincoln [ferguson.lincoln@epa.gov]
Subject: RE: Draft reply: Hatch Act allegation

Ok. Put this out.

From: Freire, JP
Sent: Tuesday, April 25, 2017 7:45 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Draft reply: Hatch Act allegation

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

One thought below:

Ex. 5 - Deliberative Process

J.P. Freire
Environmental Protection Agency
Associate Administrator for Public Affairs
Mobile: (202) 309-6781

Begin forwarded message:

From: "Bowman, Liz" <Bowman.Liz@epa.gov>
Date: April 25, 2017 at 6:54:59 PM EDT
To: "Freire, JP" <Freire.JP@epa.gov>
Subject: FW: Hatch Act allegation

I think its best if you handle this one

From: Alex Guillen [<mailto:aguillen@politico.com>]
Sent: Tuesday, April 25, 2017 6:50 PM
To: Press <Press@epa.gov>
Subject: Hatch Act allegation

Hi all, please let me know if EPA has any comment on Sen. Whitehouse's letter asking OSC to investigate this matter.

Thanks,
Alex

From: Davidson, Richard (Whitehouse) [mailto:Richard_Davidson@whitehouse.senate.gov]
Sent: Tuesday, April 25, 2017 6:12 PM

To: Davidson, Richard (Whitehouse) <Richard.Davidson@whitehouse.senate.gov>

Subject: RELEASE: Whitehouse Files Hatch Act Complaint Over Pruitt Participation in OK GOP Fundraiser

FOR IMMEDIATE RELEASE
April 25, 2017

Contact: Rich Davidson
(202) 228-6291 (press office)

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April 25, 2017

The Honorable Carolyn Lerner

ED_001267I_00007606-00002

Special Counsel
Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, D.C. 20036-4505

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The OKGOP is proud to announce that EPA Administrator Scott Pruitt will be the Keynote Speaker at this year’s Oklahoma Republican Party Gala!

During his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA “originalism.”

You do not want to miss Pruitt at this year’s OKGOP Gala, as he discusses his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA!

Make sure to purchase your Gala tickets so you don’t miss out on Administrator Pruitt’s future plans and how he will continue to Drain the Swamp! This is a once in a lifetime opportunity, so buy your tickets before they sell out!

The invitation appears to include a photograph of Pruitt being sworn in as Administrator by Supreme Court Justice Samuel Alito,^[3] and contains the link “Click Here to Buy Gala Tickets!” The electronic version also contains an image noting “Sponsorship Levels” ranging from \$2,000 to \$5,000, and setting the price of the dinner at \$100, with a “VIP reception” costing an additional \$50.

^[1] <https://www.politicopro.com/energy/whiteboard/2017/04/pruitt-to-headline-oklahoma-gop-gala-086639>.

^[2] An electronic version of the invitation is available at: <http://mailchi.mp/okgop/scott-pruitt-confirmed-to-speak-at-okgop-convention>.

^[3] Compare Exhibit A with Dave Boyer, “Scott Pruitt sworn in as EPA administrator,” *The Washington Times*, February 17, 2017, available at <http://www.washingtontimes.com/news/2017/feb/17/scott-pruitt-sworn-in-as-epa-administrator/> (accessed on April 25, 2017).

Pruitt has a long track record of making direct political solicitations, participating in political fundraising events, and chairing the boards of political organizations like the section 527 Republican Attorney Generals Association (RAGA) and its associated 501(c)(4) organization, the Rule of Law Defense Fund (RLDF). These activities frequently involved industries he now regulates as EPA Administrator.

Devon Energy and Koch Industries are regulated by EPA and have supported the OKGOP, Scott Pruitt, and RAGA. During the 2010 and 2014 election cycles, Devon Energy and Koch Industries maxed out to Pruitt's campaign.^[4] From 2014 to 2016, Pruitt was a Member of the RAGA Executive Committee when it raised \$530,000 from Koch Industries and \$125,000 from Devon Energy.^[5] Koch Industries has contributed \$5,000 to the OKGOP.^[6] J. Larry Nichols, co-founder and director of Devon Energy from 1971 to 2016, has given the OKGOP \$30,500.^[7]

RLDF, a 501(c)(4) organization, does not have to disclose its donors but public reporting has shown that it received at least \$175,000 from Freedom Partners, a 501(c)(6) organization run by several Koch Industries executives.^[8] As recently as February 28, 2017, Pruitt was a speaker at the RAGA major donors dinner.^[9]

Thanks to Pulitzer Prize winning reporting by the *New York Times*, the public knows that contributing to Pruitt's political causes is a good investment. For example, in 2011, he took a letter written by Devon Energy, put it on Oklahoma Attorney General letterhead, signed it, and sent it to EPA pleading Devon's case. According to the *New York Times*' analysis of the 1,016 words that Devon proposed, only 37 were changed.^[10]

During his confirmation process, several Senators, including me, sought further information from Pruitt about his political and financial connections in an effort to determine what conflicts of interest he would bring to his role as Administrator.^[11] Pruitt stonewalled those efforts.^[12] As a result, we now have an Administrator with potentially wide-ranging conflicts of interest related to his federal position. As discussed in greater detail below, the facts related to the May 5 OKGOP Gala appear to be a continuation of Pruitt's troubling conflation of official and political activity, now in violation of federal law.

^[4] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[5] Center for Media and Democracy, "RAGA Fossil Fuel Funders 2014-2016," January 6, 2017.

^[6] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[7] National Institute on Money in State Politics data available at <https://www.followthemoney.org>.

^[8] Elena Schor, "Democrats press EPA pick Pruitt on energy sector ties: A nonprofit he helps lead accepted \$175,000 from a central arm of the Koch brothers' network," *Politico*, December 27, 2016, available at <http://www.politico.com/story/2016/12/congress-democrats-epa-pruitt-232989>.

^[9] "Senators Question Timing of EPA Action Following Industry Meeting," April 14, 2017, available at <https://www.whitehouse.senate.gov/imo/media/doc/2017-04-14%20Letter%20to%20Pruitt%20on%20ICR.pdf>.

^[10] Eric Lipton, "Energy Firms in Secretive Alliance With Attorneys General," *New York Times*, December 6, 2014, available at <https://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html>.

^[11] EPW Members Call on Pruitt to Reveal Connections to Secretive Group Coordinating EPA Challenges, available at <https://www.whitehouse.senate.gov/news/release/epw-members-call-on-pruitt-to-reveal-connections-to-secretive-group-coordinating-epa-challenges>, December 28, 2016; Questions for Oklahoma Attorney General Scott Pruitt from Senator Tom Carper, available at https://www.carper.senate.gov/public/_cache/files/2a41152c-395c-4b3f-864e-630474ba1ddc/senator-carper-preliminary-questions-for-epa-nominee-scott-pruitt.pdf, December 28, 2016.

^[12] Whitehouse Slams Pruitt's Evasive Responses to Post-Hearing Questions, available at <https://www.whitehouse.senate.gov/news/release/whitehouse-slams-pruitts-evasive-responses-to-post-hearing-questions>, January 26, 2017.

Legal Analysis

The Hatch Act places limitations on the ability of executive branch employees to participate in political activities. An executive branch employee is prohibited from using “his official authority or influence for the purpose of interfering with or affecting the result of an election.”^[13] That prohibition extends to an employee “[u]sing his or her official title while participating in political activity,”^[14] where “political activity” is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”^[15]

More specifically, an employee may not “[a]llow his or her official title to be used in connection with fundraising activities.”^[16] According to OSC guidance, an employee “is allowed to give a speech or keynote address at a political fundraiser, as long as he or she is not on duty, appears only in his or her personal capacity, and does not solicit political contributions.”^[17] Furthermore,

[a]n employee’s name may appear on an invitation to a political fundraiser as a guest speaker as long as the reference in no way suggests that the employee solicits or encourages contributions.... However, the employee’s official title may not appear on invitations to any political fundraiser, except that an employee who is ordinarily addressed using a general term of address, such as “The Honorable,” may use or permit the use of that term of address for such purposes.^[18]

The May 5 invitation contains representations that on their face make out a violation of the Hatch Act.

- His official title appears, or is referenced, at least three times.
- The invitation is for a political fundraiser, with sponsorship levels ranging from \$2,000 to \$5,000, dinner for \$100, and special “VIP” access for an additional \$50.
- The invitation uses Pruitt’s official actions to promote the Gala, noting how “[d]uring his short tenure as EPA Administrator, Pruitt has overseen the rollback of the Waters of the US rule, called for an exit from the Paris Climate Agreement, and championed a return to EPA ‘originalism.’”
- The invitation directly ties Pruitt’s speech to his official activities, stating that he will discuss “his plans to slash regulations, bring back jobs to Oklahoma, and decrease the size of the EPA.”
- The invitation explicitly connects purchasing Gala tickets to the opportunity to hear about official government activities, like Pruitt’s “future plans and how he will continue to Drain the Swamp!” calling the Gala a “once in a lifetime opportunity.”

In short, the unmistakable impression one receives from the May 5 invitation is that by purchasing a ticket or agreeing to sponsor the OKGOP Gala, the attendee will have special access to a federal employee discussing official actions already taken, and to be taken in the future. This is clearly impermissible political activity under the Hatch Act.

^[13] 5 U.S.C. § 7323(a)(1)

^[14] 5 C.F.R. § 734.302(b)(1)

^[15] 5 C.F.R. § 734.101

^[16] 5 C.F.R. § 734.303

^[17] “Hatch Act: Federal FAQs,” Office of Special Counsel, <https://osc.gov/Pages/HatchAct-FAQs.aspx> (accessed April 25, 2017).

^[18] 5 C.F.R. § 734.208(d) Example 2.

Other considerations

Pruitt has been Administrator of the EPA for over two months and should be presumed to have been advised of his responsibilities under the Hatch Act. He is not new to the world of Oklahoma politics and political fundraising. He should have known that the OKGOP Gala was a political fundraiser and that his participation as a keynote speaker would be used by the Oklahoma Republican Party to promote the event and increase donations. That, combined with Pruitt's long history of political solicitation from industries he now regulates, and stonewalling of congressional and other public inquiries into his ties to those industries, suggests a pattern of behavior that warrants close scrutiny by your office.

Conclusion

The Hatch Act protects the integrity and impartiality of the federal government by preventing officials like Administrator Pruitt from engaging in political activity in their official capacities. The facts here appear to be a blatant violation of the Act. As an initial matter, I urge you to take quick action to ameliorate some of the harm already done. The OKGOP Gala has not yet occurred, so Administrator Pruitt should be instructed not to attend. In light of the fact that the OKGOP's promotional materials have already promised donors special access to a federal employee in exchange for a political contribution, anything short of prohibiting his attendance will not change, in the public's perception, that the OKGOP's Gala is a "pay-to-play" event with a federal Cabinet official.

Prompt action to prevent further harm is necessary here but not sufficient. I further urge you to conduct a full investigation into the facts and circumstances of this matter and take all appropriate disciplinary action against Administrator Pruitt.

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.....

Message

From: Dickerson, Tom [Dickerson.Tom@epa.gov]
Sent: 5/30/2017 7:59:52 PM
To: Trudeau, Shaun [Trudeau.Shaun@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]; Youngblood, Charlotte [Youngblood.Charlotte@epa.gov]; Aarons, Kyle [Aarons.Kyle@epa.gov]
Subject: FW: FINAL APPROVAL: Carper OKGOP letter
Attachments: Carper OKGOP 5-30-17 .docx; OKGOP Enclosure.pdf

Shaun,

I've spoken with Justina about this letter, and have just now received Troy's sign-off on this version. So, from our perspective, OCIR is fine with Kevin signing these.

Thanks!

Tom Dickerson
Office of Congressional Relations
U.S. Environmental Protection Agency
(202) 564-3638

To: Fugh, Justina[Fugh.Justina@epa.gov]; Dickerson, Tom[Dickerson.Tom@epa.gov];
Youngblood, Charlotte[Youngblood.Charlotte@epa.gov]
Cc: Williams, LaShawn[williams.lashawn@epa.gov]; Aarons, Kyle[Aarons.Kyle@epa.gov];
Richardson, RobinH[Richardson.RobinH@epa.gov]
From: Trudeau, Shaun
Sent: Tue 5/30/2017 3:54:51 PM
Subject: RE: Letters for tomorrow
[Whitehouse ICR 5-25-17.docx](#)
[Senator Whitehouse 5-25-17 \(ethics AL-17-000-7145\).docx](#)
[Draft response to 17-000-8302 v2.docx](#)

Thanks, Justina. My responses are in **Green**.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Shaun R. Trudeau

Attorney-Advisor

Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Fugh, Justina

Sent: Tuesday, May 30, 2017 11:16 AM

To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>;
Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>;
Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Hi Tom *et al.* --

I'm done for now, but I think that Shaun has two documents to send to Kevin Minoli for review.
See notes below.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

What fun!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dickerson, Tom
Sent: Tuesday, May 30, 2017 10:42 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>;
Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>;
Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Good morning folks! Hope everyone had a great weekend. So, back to the letters that are close to being done. We'd like to get these out of here later today or early tomorrow if at all possible.

Copying Shaun's update from Friday, I'll add my understanding in blue:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Please let us know where things stand from OGC's perspective. Thanks!

Tom Dickerson

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Fugh, Justina

Sent: Friday, May 26, 2017 4:38 PM

To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

No, but Shaun will be able to move the process forward. I have great faith in Shaun!

From: Dickerson, Tom

Sent: Friday, May 26, 2017 4:24 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Thanks, Justina, to you and all you folks for your work on all of these!

We certainly understand why folks would be fading at this hour before a holiday weekend. Is Kevin around on Tuesday if he doesn't sign them today?

Thanks again...

Tom Dickerson

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

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Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Your OGC colleagues are fading fast ...

I still want to try to get changes to Shaun today so that he can get them to Kevin!

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Sent: Friday, May 26, 2017 4:09 PM

To: Lyons, Troy <lyons.troy@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Troy, I haven't heard any additional updates from our OGC colleagues this afternoon.

Tom Dickerson

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Lyons, Troy

Sent: Friday, May 26, 2017 3:23 PM

To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Dickerson, Tom <Dickerson.Tom@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>;
Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

DO you know if anymore will be cleared to go out today

From: Trudeau, Shaun
Sent: Friday, May 26, 2017 10:58 AM
To: Dickerson, Tom <Dickerson.Tom@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
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Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>;
Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: Letters for tomorrow

Hi all,

My understanding:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Shaun R. Trudeau

Attorney-Advisor

Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Dickerson, Tom

Sent: Friday, May 26, 2017 10:20 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Youngblood, Charlotte
<Youngblood.Charlotte@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>;
Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: RE: Letters for tomorrow

Hello OGC colleagues!

Ex. 5 - Deliberative Process

I'm off to the Dr. now so please copy all so Troy and Robin can know what to expect. Thanks!

I

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Aarons, Kyle

Sent: Thursday, May 25, 2017 1:46 PM

To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Dickerson, Tom <Dickerson.Tom@epa.gov>

Subject: Letters for tomorrow

Hi all – Troy is trying to get as many of these letters as possible out tomorrow:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I will be leaving at about 2:45 today and both Tom and I are out tomorrow. We will both be monitoring our email tomorrow, but please include Troy on any communication you have about these.

Thanks,

Kyle

Kyle Aarons

Congressional Affairs

U.S. Environmental Protection Agency

202-564-7351

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Dickerson, Tom
Sent: Thur 5/25/2017 5:55:41 PM
Subject: FW: For Kevin's signature this afternoon
[OKGOP Document 2.pdf](#)
[Senator Warren 5-25-17 \(ethics waivers AL-17-000-7283\).docx](#)
[Carper OKGOP 5-25-17 \(AL-17-000-8302\).docx](#)
[OKGOP Document 1.pdf](#)

Sorry, had the wrong AL number the Whitehouse letter to be revised. The correct # is al 17 000 7145 !

Tom Dickerson

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Dickerson, Tom
Sent: Thursday, May 25, 2017 1:35 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: For Kevin's signature this afternoon

Here are two OCIR-approved letters for Kevin's signature this afternoon.

Ex. 5 - Deliberative Process

Thanks!

Tom Dickerson

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Dickerson, Tom

Sent: Thursday, May 25, 2017 7:05 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Aarons, Kyle <Aarons.Kyle@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>

Subject: Re: here's the draft response to 8302.

Thanks, Justina. That sounds like a good plan.

Sent from my iPhone

On May 24, 2017, at 4:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

More to come. Copying Jeanne Duross of OGC/Ethics who is keeping track of our responses so I don't lose our place.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process Okay with you?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308

ED_001267K_00002231-00002

North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

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Cc: Williams, LaShawn[williams.lashawn@epa.gov]; Aarons, Kyle[Aarons.Kyle@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]
From: Fugh, Justina
Sent: Tue 5/30/2017 3:16:20 PM
Subject: RE: Letters for tomorrow
[Whitehouse ICR 5-25-17.docx](#)
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Ex. 5 - Deliberative Process

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U.S. Environmental Protection Agency

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Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

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Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Shaun R. Trudeau

Attorney-Advisor

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Office of General Counsel
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Subject: RE: Letters for tomorrow

Hello OGC colleagues!

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I'm off to the Dr. now so please copy all so Troy and Robin can know what to expect. Thanks!

I

Office of Congressional Relations

U.S. Environmental Protection Agency

(202) 564-3638

From: Aarons, Kyle

Sent: Thursday, May 25, 2017 1:46 PM

To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>

Cc: Williams, LaShawn <williams.lashawn@epa.gov>; Dickerson, Tom <Dickerson.Tom@epa.gov>

Subject: Letters for tomorrow

Hi all – Troy is trying to get as many of these letters as possible out tomorrow:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I will be leaving at about 2:45 today and both Tom and I are out tomorrow. We will both be monitoring our email tomorrow, but please include Troy on any communication you have about these.

Thanks,

Kyle

Kyle Arons

Congressional Affairs

U.S. Environmental Protection Agency

202-564-7351

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 5/2/2017 11:40:49 AM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]
Subject: FW: Morning Energy: Methane CRA's fate remains unclear as time runs down — LaFleur queries New England states on market options — House subpanel tackles monument designations

Ex. 5 - Deliberative Process

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Tuesday, May 2, 2017 5:47 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Morning Energy: Methane CRA's fate remains unclear as time runs down — LaFleur queries New England states on market options — House subpanel tackles monument designations

By Anthony Adragna | 05/02/2017 05:43 AM EDT

With help from Jason Huffman and Annie Snider

METHANE CRA PICTURE REMAINS FUZZY: There's little more than a week left for Congress to nullify Obama-era regulations using the Congressional Review Act, but whether the Senate will be able to ax a BLM rule targeting methane emissions from oil and gas drilling on public lands remains as hazy as ever. Sen. John Barrasso said last week he was confident his resolution to block the rule would pass, but he doesn't yet appear to have the 50 votes he needs (with Vice President Mike Pence breaking the tie) firmly locked down. Environmentalists and Senate aides hoping to defeat the resolution are eyeing four publicly undecided senators — Democrat Heidi Heitkamp and Republicans Rob Portman, Cory Gardner and Dean Heller. (Don't forget, Sens. Lindsey Graham and Susan Collins have already signaled their opposition, so Barrasso could only afford to lose one more vote.)

"There are a few key players who have not yet declared their intentions," Robert Dillon, vice president of communications with the American Council for Capital Formation, a big CRA backer, told ME. "The whip operation continues and we continue to encourage members to vote for the CRA." Both Gardner and Portman told ME they were undecided late Monday, and Heather Taylor-Miesle, executive director of the Ohio Environmental Council, said the grassroots continued to push Portman against the resolution: "We had 5,000 people attend a tele-townhall on the issue last week here in Ohio so we know that people are concerned and want the senator to fiercely oppose any efforts to stop the methane rule," she told ME. A spokesman for Senate Majority Leader Mitch McConnell declined to comment on the CRA's timing, though ME hears rumblings it could slip until next week.

That comes as a former top Interior official sent a letter to Senate leadership warning "repealing this rule through the CRA will impair, if not eliminate altogether, BLM's ability to promote recapture of wasted gas" without Congress stepping in with new legislation. John Leshy, who served as the agency's solicitor from 1993-2001, warned: "Using the blunt instrument of the CRA might make a nice headline, but it could also forever

insulate the industry from meaningful, effective regulation on this important subject, unless the Congress could muster the political will to provide new authority in new legislation."

LET'S MAKE A DEAL? Day two of FERC's much-watched technical conference kicks off today at 9 a.m., one day after Acting FERC Chairman Cheryl LaFleur questioned whether New England grid members would be able to reach an agreement with the agency to adapt the wholesale markets to their individual power generation goals by overcoming differences between state energy policy goals, Pro's Esther Whieldon reports. States appear to want FERC to help keep power plants online and offer incentives for new plants to ensure grid reliability, but don't want interference in their policy goals or to be on the hook for subsidizing other states' efforts. LaFleur noted some state officials had expressed a "lack of trust in FERC solutions."

That comes as New York state Democrats hammered Gov. Andrew Cuomo's top energy officials Monday about a nuclear subsidy for upstate plants, questioning its \$1 billion cost in the first two years, whether enough alternatives were considered and why downstate ratepayers are footing the bill, POLITICO New York's Marie J. French reports.

WELCOME TO TUESDAY! I'm your host Anthony Adragna, and LCV President Gene Karpinski was the first of many to identify Chris Dudley as the NBA player-turned Republican Oregon gubernatorial nominee. For today: What former professional basketball player later chaired the House Natural Resources Committee? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning_Energy](https://twitter.com/Morning_Energy), and [@POLITICOPro](https://twitter.com/POLITICOPro).

GUIDE TO FEDERAL BUDGET & APPROPRIATIONS PROCESS: The federal budget process is complicated; brush up on your knowledge so you're ready to act as the budget winds its way through Congress. Download your guide.

HEARING TO TARGET 'WORST OF THE WORST' OBAMA LAND, SEA GRABS: Ranchers, lumber companies and commercial fishing operations will all be watching closely this morning when a House Natural Resources Committee panel paints a bull's eye on what Chairman Rob Bishop's office describes as the "worst of the worst" examples of President Barack Obama's "excessive use" of the Antiquities Act to lock up more than 550 million acres of land and water with national monument designations. Among the areas to get attention: Bears Ears, in Bishop's home state of Utah; Katahdin Woods and Waters in Maine; Cascade-Siskiyou in Southern Oregon and Northern California; and Northeast Canyons and Seamounts Marine Monument off the coast of New England.

The event, which will feature four witnesses, including Maine Gov. Paul LePage, builds off President Donald Trump's executive order to have Interior review two dozen national monuments created since Jan. 1, 1996. It kicks off at 10 a.m. in Longworth 1324. Here's a background memo.

Groups oppose any rollbacks: An eclectic group of 450 organizations, ranging from the NAACP to Patagonia to the Center for American Progress, is sending a letter today to Trump, Interior Secretary Ryan Zinke and Commerce Secretary Wilbur Ross urging them to oppose "any efforts to remove or decrease protections for any national monuments." They'll present it at a 9:30 a.m. press conference held by House Natural Resources Ranking Member Raul Grijalva ahead of the hearing.

OOPS: Trump's EPA team appears to have left up the agency's climate change page in Spanish, after removing the English-language version as part of a larger overhaul announced Friday night. Link here and a screenshot if it goes away.

AND... WE'RE OFF! Speaking at a Consumer Energy Alliance event in Houston, Zinke signed a secretarial order Monday directing BOEM to start a review of the agency's five-year plan for offering oil and gas leases in federally controlled waters, Pro's Esther Whieldon reports. "We're going to look at everything," Zinke said of

the review, which he said previously could take two years. He also complied with Trump's directive to review the well control rule for offshore drilling.

Ally nabs new Interior position: Zinke announced Vincent DeVito, the treasurer of his former congressional leadership PAC, would be in charge of coordinating the agency's energy policies across its nine bureaus, Esther reports. "We have to look at ourselves through to make sure we're streamlined and our regulations aren't arbitrary," Zinke said. It's a newly created position that will not require Senate confirmation.

For your radar: Zinke is delivering remarks at 9:15 a.m. at the National Tribal Energy Summit at the JW Marriott Washington.

BEACHHEAD MEMBER GETS BIGGER DOE ROLE: Daniel Simmons, a former vice president for policy at the libertarian-leaning IER, today becomes acting assistant secretary for the Office of Energy Efficiency and Renewable Energy, Pro's Darius Dixon reports. Simmons can only hold the position on a temporary basis without being nominated and confirmed by the Senate.

MAIL CALL! LET'S HATCH A PLAN, MR. PRUITT: Four Senate EPW Democrats — Tom Carper, Sheldon Whitehouse, Ed Markey and Jeff Merkley — sent a letter to EPA Administrator Scott Pruitt Monday seeking documents concerning the administrator's decision last week to pull out of an Oklahoma Republican Party gala. They also asked Pruitt to describe what steps he'll take to comply with the Hatch Act, which aims to stop federal workers from politicking while on duty, going forward.

SCHUMER HIGHLIGHTS EPA PROTECTION IN OMNIBUS: Senate Minority Leader Chuck Schumer touted two key Democratic omnibus victories Monday: the preservation of 99 percent of EPA's budget "so their quest to keep our water and air clean will be able to continue" and the permanent extension of health benefits for coal miners. He praised West Virginia Sen. Joe Manchin as "relentless, even after disappointment after disappointment, at holding the Senate's feet to the fire and making sure this was done." Speaking of which, ME's never seen anything quite like this before: A letter from Speaker Paul Ryan praising Rep. David McKinley for his "relentless" efforts at securing the compromise.

DRINKING WATER VIOLATIONS ARE DE RIGUEUR: Roughly a quarter of all Americans are served by drinking water systems that violated federal drinking water standards in 2015, according to a report out later today from the Natural Resources Defense Council. The report, which calls for greater enforcement and investment in the drinking water sector, found nearly 80,000 violations at systems across the country, with small, rural systems accounting for more than half of those.

No cop on the beat: As last year's failure in Flint, Mich., illustrated, EPA and states are loath to penalize water systems that violate the law. The NRDC report found that nine out of 10 violations were faced no formal action, and just 3.3 percent resulted in financial penalties.

COMMENTS READY? EPA's water office will hold a 3-hour-long virtual public listening session today as it solicits suggestions for regulations to scrap, change or replace. With two weeks left until the formal comment deadline, more than 35,000 public comments have rolled in to the docket.

SEE YOU IN COURT! A group of children seeking to force the federal government to take drastic action on climate change should be allowed to make their case in court, a magistrate judge assisting with the case recommended Monday. As Pro's Alex Guillén reports, the Trump administration asked a federal district court judge in March to allow the 9th Circuit Court of Appeals to consider tossing the case before it went to trial before her. District Court Judge Ann Aiken must now decide whether to agree with Magistrate Judge Thomas Coffin's recommendation or give her blessing to the Trump administration's early appeal effort.

WORK BEGINS ON COAL ASH GUIDANCE: EPA is currently working on the needed guidance to review and approve states' coal ash permitting programs, Administrator Scott Pruitt wrote in [a letter](#) to Nevada Gov. Brian Sandoval. As Pro's Alex Guillén [reports](#), a December water infrastructure package included a coal ash [compromise](#) that shifted permitting responsibilities to the states, which must first get EPA approval of their programs' broad contours, while the agency gained more enforcement powers and other concessions.

DID YA GET THAT MEMO? Sen. [Claire McCaskill](#) sent [a letter](#) to Energy Secretary Rick Perry seeking information about how his agency is addressing concerns raised in [a GAO report](#) about its ability to identify and prevent contracting fraud. "Oversight challenges with management of fraud risk and improper payments exist across the DOE complex," she wrote. "It is apparent that the risk is actually unknown because DOE does not adequately assess or oversee it." The Energy Department "generally concurred" with a series of the GAO recommendations, but nevertheless rated its fraud risk as "low" and disagreed with a number of the report's conclusions.

STATES RATE TOP ENVIRONMENTAL RESEARCH NEEDS: Top environmental and public health challenges for states include water quality, remediation of contaminated sites, and nutrient and nonpoint water contamination, according to [a survey of state needs](#) released Monday by the Environmental Council of the States.

RECORDS SOUGHT OF NOAA CHAT RECORDS: The Cause of Action Institute has filed [a FOIA request](#) seeking NOAA employee communications during a recent New England Fishery Management Council meeting April 18-20. "CoA Institute is concerned that NOAA may be unlawfully destroying records of these communications," the request said. That's because it appears certain Google Chat records may not have been retained. The FOIA marks the [latest attempt](#) to seek records of chat communications from federal employees.

McKIBBEN GETS ACADEMIC TREATMENT: There's now a [full-length academic paper](#) looking at the role of Bill McKibben on the U.S. climate debate. It concludes that while divestment itself achieved "little traction," previously marginalized liberal policy ideas "gained increased attention and legitimacy."

Meanwhile, the Independent Petroleum Association of America is promoting [another paper](#) that attempts to quantify the costs of divestment to students and faculty at both public and private institutions.

MOVER, SHAKER: Christopher Smith, former assistant secretary for fossil energy at DOE under President Obama, has been named Baker Institute Advisory Board Fellow in Energy Studies at Rice University's Baker Institute for Public Policy.

QUICK HITS

- 50 percent of US coal jobs are in just 25 counties. [Quartz](#).
- Britain's energy supply is in jeopardy after Brexit, warn MPs. [Guardian](#).
- Top Ethics Officer Challenges Trump Over Secret Waivers for Ex-Lobbyists. [New York Times](#).
- Unions praise McConnell for deal to fix health benefits of retired miners. [Lexington Herald-Leader](#).
- Big short position on biofuels generated profit for Icahn's refiner. [Reuters](#).
- Oil Price Optimism Wears Off as Texas Wildcatters Drill On. [Bloomberg](#).

HAPPENING TUESDAY

10:00 a.m. — "Consequences of Executive Branch Overreach of the Antiquities Act," House Natural Resources Subcommittee on Federal Lands, 1324 Longworth

10:00 a.m. — Senate Energy and Natural Resources Committee hearing on federal lands, 366 Dirksen

12:00 p.m. — "Nuclear for the Next Generation," The Nuclear Energy Institute and Partnership for Global Security, National Press Club, 529 14th St. NW

12:00 p.m. — Alston & Bird panel on pharmaceutical waste, 950 F Street NW

1:00 p.m. — "Tipping Points in Global Environmental Policy," World Resources Institute, James A. Harmon Conference Center, 10 G Street NE, Suite 800

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/tipsheets/morning-energy/2017/05/methane-crisis-fate-remains-unclear-as-time-runs-down-022622>

Stories from POLITICO Pro

FERC's LaFleur presses New England states on market options Back

By Esther Whieldon | 05/01/2017 06:15 PM EDT

Acting FERC Chairman Cheryl LaFleur Monday questioned whether the New England grid members could overcome their state policy differences and cut a deal with FERC to adapt the wholesale markets to their individual power generation goals.

Some of the ISO New England states have required their utilities to purchase renewable energy from wind farms or hydroelectric plants, and Connecticut is considering mandates to support its nuclear power plants. Those requirements have jolted the wholesale power markets — potentially forcing FERC to step in with new market rules to mitigate the price impacts, or back down and allow the state subsidies that could push some fossil fuel plants into retirement.

LaFleur noted that the state officials who were participating in Monday's discussions or sent in comments had expressed a "lack of trust in FERC solutions." While the states want the wholesale market to help keep power plants online and offer incentives for new plants to ensure grid reliability, they don't want the market to interfere with their policy goals.

"Do you think there's a way to define what the states want and price it, or do the states want by definition the ability to choose?" LaFleur said.

"There's a lot of value in having ISO run markets," said Jeffrey Bentz, director of analysis for the New England States Committee on Electricity, a group that represents the governor of the six New England states. But states are still undecided on what they want more broadly, he said. "We get that question, we have to answer it. The ball's in our court," he said.

Bentz and officials from New Hampshire and Connecticut said in addition to their wariness over FERC rule changes, cost is an issue, since they did not want their consumers to be subsidizing policy goals in other states.

"What I want is not to pay for Massachusetts' and Connecticut's policies, bluntly, so that shows you the dynamic there," said Robert Scott, a commissioner on the New Hampshire Public Utilities Commission.

"I'll agree with you there actually," said Rob Klee, a commissioner of Connecticut's Department of Energy and Environmental Protection.

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Assembly Democrats not satisfied with administration's answers on nuclear subsidy [Back](#)

By Marie J. French | 05/01/2017 05:27 PM EDT

ALBANY — Assembly Democrats hammered Gov. Andrew Cuomo's top energy officials during a hearing on Monday about a subsidy for upstate nuclear plants that took effect a month ago.

The lawmakers questioned whether the cost — about \$1 billion in the first two years — is necessary, what alternatives were considered and why downstate ratepayers are footing the bill.

Not all of those questions were satisfactorily answered, said Assemblyman Jeffrey Dinowitz, who chairs the Corporations, Authorities and Commissions Committee. Dinowitz has raised concerns about Exelon, which operates the plants, making a profit from the subsidy, as opposed to the funds being used for operational costs to keep the plants open.

He said his questions about that possibility were not answered by interim Public Service Commission chair Gregg Sayre.

"He didn't have a number," Dinowitz said. "It's a bailout. There's no debate about that, the question is how big the bailout is and we don't have the answer on that. That's what I wanted to know ... How much is going directly into the pockets of the company?"

Sayre pointed to Exelon's contention that it needed \$50 per megawatt hour to make operating the plants viable. The combined price of the zero emissions credits and expected revenues for the first two years of the subsidy is slightly lower than that — about \$48 per megawatt hour.

Dinowitz pressed the point with Sayre, asking how much would be profit.

"We don't know exactly how much is profit," Sayre said, adding as Dinowitz continued his questioning, "We don't have a dollar amount."

The subsidy helps keep open four upstate nuclear reactors, three of which were in danger of closing. It was approved in August as part of the state's Clean Energy Standard, which mandates that the state get to 50 percent renewable electricity by 2030. Ratepayers around the state began paying for the zero emissions credits, or ZECs, in April.

The subsidy has been challenged in court by competing generators and an environmental group.

As lawmakers pushed for answers Monday, Cuomo officials acknowledged the difficulty of estimating the subsidy's final price. They also said siting and cost would make replacing the nuclear plants with renewables impossible in the near-term.

Opponents of the nuclear subsidy, including a coalition of environmental and good government groups behind the "Stop the Cuomo Tax" campaign, have argued that the nuclear plants can be replaced by renewable energy in a measured way. Assembly Democrats asked whether such an alternative had been considered.

Sayre said replacing all of the upstate nuclear plants — which supply about 3,200 megawatts of electricity — with renewables would cost \$100 million more annually than the subsidy. He based that figure on a very rough estimate comparing the cost of zero emissions credits for nuclear versus renewable energy credits, or RECs. He said the cost would be even greater in the future as renewable energy credits are expected get more expensive as easier-to-site projects are completed and they get pricier.

Sayre and NYSERDA president and CEO John Rhodes said it would be nearly impossible to site that much renewable capacity in a short period.

"It would've been that much more and it would've gotten worse — had we been able to site them, which of course we couldn't have done in a few months," Sayre said.

Subsidy opponents have emphasized the \$7.6 billion cost over 12 years of the plan. The subsidy will cost \$483 million annually in the first two years and is recalculated every two years. The administration offered its own estimate of \$2.8 billion, based on forecasted increases in energy prices, in late March.

Questioned by lawmakers about the certainty of such forecasts, Sayre said it was "crazy" to try to estimate energy prices 12 years in the future.

"We don't know what it's going to cost. Nobody does," Paul Agresta, the PSC's general counsel, later said.

Lawmakers also raised concerns about whether the administration has made plans for the eventual closure of the plants after the 12-year subsidy ends and the plants come up for their license renewals.

"What is the plan?" asked Assemblywoman Pamela Hunter, a Democrat from Syracuse. "I'm talking about particulars, about decimating an actual community... what is the plan for closure so communities aren't crushed?"

Sayre said there's 12 years to plan for that transition rather than a few months as the alternative.

"Your planning contingencies should have anticipated this by many years, instead of coming up on it like a bug on the windshield," said Assemblyman Steve Englebright, who chairs the Environmental Conservation Committee.

The Assembly Democrats who called the hearing, most of them from downstate, also focused on the cost of the subsidy for ratepayers in their communities when the economic benefits of the jobs saved are all upstate. The ZECs are charged on the basis of how much each energy a ratepayer uses. Since downstate consumes more of the electricity in the state, much of the subsidy comes from downstate ratepayers.

"If we use the social cost of carbon ... but we don't factor in economic development, jobs, then the cost is going to be on downstate ratepayers," said Assemblywoman Amy Paulin, who chairs the Energy Committee.

The Cuomo administration has argued that everyone in the state benefits from the avoided carbon emissions because of the subsidy, making it fair to distribute the costs equally.

It's not clear what, if any, action the Assembly Democrats will take on the nuclear subsidy. Senate Republicans have shown no interest in thwarting the subsidies, as their members represent communities near the plants.

Assemblyman Brian Kavanagh, chair of the Consumer Affairs and Protection Committee, said the lawmakers would review information provided just minutes before the hearing and then decide.

"It's still an open question how this program goes forward," he said at the end of the hearing.

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Trump orders Interior to launch national monument reviews [Back](#)

By Esther Whieldon | 04/26/2017 11:48 AM EDT

President Donald Trump today ordered his administration to consider whether to shrink or eliminate national monuments that have placed millions of acres of federal land off limits to development.

Trump signed an executive order directing Interior Secretary Ryan Zinke to review two dozen monuments that were created since the Clinton administration. The president also asked Zinke to come up with possible legislative fixes to the 1906 Antiquities Act, which gives presidents wide latitude to establish national monuments on federal lands.

At the signing at the Interior Department, Trump said former President Barack Obama had abused the Act to implement a land grab that placed 265 million acres under the control of the federal government.

"Today we are putting the states back in charge," Trump said

Conservation groups [worry](#) Trump and Zinke could weaken the underlying law that has been a conservation tool for 16 past presidents and potentially open up sensitive areas to fossil fuel development. Legal experts say it is unclear whether Trump could fully revoke previous monument designations, but he may be able to shrink the size of protected areas. Congress would have to implement any changes to the Antiquities Act itself.

Ahead of the signing, Zinke said "somewhere along the way, the Act became the tool of political advocacy rather than public interest, and it is easy to see why some designations are viewed negatively by those most impacted."

WHAT'S NEXT: Zinke is directed to come back with an interim report within 45 days and a final report in 120 days, and any actions Trump takes as a result are likely to face legal challenges, especially if he tries to revoke previous designations.

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Zinke starts offshore leasing program review [Back](#)

By Esther Whieldon | 05/01/2017 03:52 PM EDT

Interior Secretary Ryan Zinke signed a secretarial order today directing BOEM to start a review of the agency's five-year plan for offering oil and gas leases in federally controlled waters.

The move follows President Donald Trump's Friday [executive order](#) directing the agency to launch the review of the leasing plan set in place by the Obama administration.

"We're going to look at everything," Zinke said before signing the order at a Consumer Energy Alliance event in Houston, which was streamed on Facebook.

WHAT'S NEXT: Zinke told reporters last week the review of the offshore plan could take two years to complete.

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Zinke taps political ally to coordinate Interior energy work [Back](#)

By Esther Whieldon | 05/01/2017 04:49 PM EDT

Interior Secretary Ryan Zinke today named the treasurer of his former congressional leadership PAC to a newly created position coordinating the agency's energy policies across its nine bureaus.

Vincent DeVito, a Boston-based energy lawyer, will be counselor to the secretary for energy policy, where he will be responsible for ensuring all the agencies are on the same page, Zinke said at a Consumer Energy Alliance event in Houston, which was streamed on Facebook.

Between the Fish and Wildlife Service, BOEM, BSEE, BLM "and all the different departments I have, it's confusing for me," Zinke said.

"So I just need a single point of contact. ... We have to look at ourselves through to make sure we're streamlined and our regulations aren't arbitrary," he said.

When Zinke was a member of the House, DeVito, a partner at Bowditch & Dewey, was listed as treasurer for Zinke's leadership PAC, the Supporting Electing American Leaders or SEAL PAC.

DeVito has worked on a number of energy issues, including on [pipelines](#). He represented conservation land trusts in opposing Northeast Energy Direct — a project Kinder Morgan withdrew its federal application in May 2016.

DeVito also worked in the George W. Bush administration as Department of Energy's general counsel's office and as DOE's U.S. Assistant Secretary of Energy for Policy and International Affairs.

WHAT'S NEXT: DeVito does not require Senate confirmation for his newly created position, and Zinke did not provide any indication of when President Donald Trump would nominate more senior leaders at Interior.

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DOE beachhead member lands senior EERE post [Back](#)

By Darius Dixon | 05/01/2017 05:30 PM EDT

The Institute for Energy Research's Daniel Simmons will take up a leading post at the Department of Energy as the acting assistant secretary for the Office of Energy Efficiency and Renewable Energy, the agency said in an email to staff today.

DOE said Simmons, a former vice president for policy at the libertarian-leaning IER, would take the role of principal deputy assistant secretary for the office effective today. However, without an EERE assistant secretary who has been nominated and confirmed by the Senate, Simmons can only hold the position on a temporary basis.

DOE confirmed Simmons' appointment.

Simmons was a member of President Donald Trump's transition and beachhead teams at DOE. Before joining IER, he directed the Natural Resources Task Force at the American Legislative Exchange Council.

Steven Chalk, who had served in the position for the past few months, will now return to his role as the deputy assistant secretary for operations, according to the email.

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Pruitt won't attend Oklahoma GOP fundraiser [Back](#)

By Annie Snider | 04/27/2017 09:59 AM EDT

EPA Administrator Scott Pruitt will not attend a May 5 Oklahoma GOP fundraiser because of a flier touting his appearance, he said this morning.

"We're not going to be able to attend because of the invitation that was sent out," Pruitt told Fox News Radio host Brian Kilmeade.

Pruitt noted that his attendance had been approved in advance by EPA's ethics office, but it was the flier, which used his title and promoted remarks he would make about his EPA job, that "prevented my attendance."

Sen. [Sheldon Whitehouse](#) (D-R.I.) this week alleged that Pruitt's appearance would violate the Hatch Act, the law limiting political activities by presidential appointees and other government officials, and asked the U.S. Office of Special Counsel to investigate.

In the radio interview, Pruitt was asked whether he will urge Trump to exit the Paris climate change agreement. "Without a doubt, yes," he responded.

"It's just a bad business deal, it's something we need to exit. We need to stay at the table, we need to show the leadership to the rest of the world as we already are, but Paris is ... an America last strategy as opposed to an America first strategy," he said.

After an uproar over previous comments about the role carbon emissions play in climate change, Pruitt today acknowledged that "climate change is occurring and human activity contributes to that, carbon contributes to that." But, he said, "we can't measure with precision the amount of human activity, what it contributes to that climate change."

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Let kids' climate suit go to trial, judge recommends [Back](#)

By Alex Guillén | 05/01/2017 04:21 PM EDT

A federal magistrate judge today said that a group of children seeking to force the federal government to take drastic action on climate change should be allowed to make their case in court.

The Trump administration, backed up by the oil and manufacturing industries, in March asked a judge in the U.S. District Court in Oregon to let them leapfrog her and ask the 9th Circuit Court of Appeals to toss out the case before it goes to trial.

In a 16-page recommendation today, Thomas Coffin, a magistrate judge assisting with the case, recommended that District Court Judge Ann Aiken reject the administration's request. Aiken concluded last year that there were enough questions to merit a trial.

Many of the legal questions are inextricably tied to scientific questions about climate change's causes and risks, as well as the government's past and current efforts to curb greenhouse gases or encourage fossil fuel development, Coffin wrote. A trial would allow the Trump administration and industry groups to present any evidence against climate change and its risks in a public forum, he added.

The children behind the lawsuit argue that the government has violated a public trust doctrine by knowing of climate change for decades but not doing enough to combat the threat. The Obama and Trump administrations have rejected that argument.

The Trump administration could still ask the 9th Circuit to get involved, but officials would have a much harder time if Aiken agrees with Coffin.

WHAT'S NEXT: Judge Aiken must decide whether to agree with Coffin's assessment or give her blessing to the Trump administration's early appeal effort.

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Pruitt says EPA working on plans to approve states' coal ash programs [Back](#)

By Alex Guillén | 05/01/2017 05:17 PM EDT

EPA is working on its procedures for reviewing and approving states' coal ash permitting programs, Administrator Scott Pruitt said in a Friday letter.

A water infrastructure package that was signed into law in December included a bipartisan compromise on coal ash regulation that came in response to EPA's 2014 regulation on coal ash, a toxic byproduct of burning coal for electricity. The compromise shifted permitting responsibilities to the states, which must first get EPA approval of their programs' broad contours, while EPA gained more enforcement powers and other concessions.

EPA is currently working on the needed guidance for states to seek such approval, Pruitt wrote in a letter to Nevada Gov. Brian Sandoval.

"EPA has started developing guidance for states about how EPA expects to review and approve state applications to operate permit programs and allow flexibility in individual permits in lieu of the national standards," Pruitt wrote.

The topic was discussed at a recent gathering of state environmental officials, and the agency plans to go into technical detail with the Association of State and Territorial Solid Waste Management Officials, Pruitt added.

WHAT'S NEXT: EPA will develop draft guidance and may seek public input before issuing final guidance on how it will review state submissions.

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Bipartisan coal ash provision included in final WRDA [Back](#)

By Alex Guillén | 12/05/2016 04:28 PM EDT

The final version of the Water Resources Development Act released today by House and Senate negotiators includes a tweaked version of language passed earlier this year by the Senate that would change the permitting and enforcement regime for EPA's coal ash rule.

The language will require states to get EPA approval for their coal ash disposal permitting plans, and the agency will also gain more enforcement powers, on top of potential citizen lawsuits.

"This new permitting authority fixes the main problems with the recent coal ash regulation issued by the Environmental Protection Agency, by removing citizen suits as the sole means of enforcement and allowing states to tailor permit requirements on a case-by-case basis," Sens. Jim Inhofe, Joe Manchin, Shelley Moore Capito and John Hoeven said in a joint statement.

The provision won bipartisan backing, although various environmental groups, including the Sierra Club, Environmental Integrity Project and the Waterkeeper Alliance, raised issues with the language.

The new language would also extend EPA's timeline to review authorized state programs from every five years to every 12 years. And it gives EPA more time to review state programs, includes language allowing states to ask EPA to review a neighboring state's program, and requires EPA to operate a backstop permit program for states without authorized programs.

The bill is expected to hit the House floor this week.

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Conservatives demanding details on federal workers' encryption use [Back](#)

By Andrew Restuccia | 02/14/2017 03:00 PM EDT

Republicans in Congress and their conservative allies are demanding details about federal workers' use of encrypted messaging apps, part of a broader counterattack on employees suspected of opposing President Donald Trump's agenda.

Congressional Republicans are also pondering changes to longstanding laws that protect government workers, further stoking fears among some federal employees that the new administration's supporters are out to squash dissent.

Republicans on the House Science Committee took up the cause on Tuesday by asking EPA's inspector general to review reports that agency employees are using an app called Signal, which allows people to exchange encrypted text messages and phone calls. POLITICO reported this month that a group of fewer than a dozen EPA employees were using the app to discuss what they would do if Trump's political appointees flout the law or delete valuable scientific data.

The anti-Trump resistance has infuriated Republicans, who fear that dissenters in the government could undercut the president's policy proposals by unleashing even more embarrassing leaks. They also contend that the use of encrypted messaging circumvents federal record-keeping laws — an argument Science Chairman Lamar Smith (R-Texas) echoed in Tuesday's letter.

"[T]he Committee is concerned that these encrypted and off-the-record communication practices, if true, run afoul of federal record-keeping requirements, leaving information that could be responsive to future Freedom of Information Act (FOIA) and congressional requests unattainable," wrote Smith, who organized the letter to the IG. The panel has jurisdiction over many cybersecurity issues.

Outside conservative groups have launched similar efforts.

Citing POLITICO's story, the Cause of Action Institute, a right-leaning watchdog group, filed a request under the Freedom of Information Act this month seeking EPA employees' communications using Signal. "The bottom line is: An encrypted app is basically a way to avoid transparency," Institute Assistant Vice President Henry Kerner said in an interview.

It's not just encryption that is raising eyebrows. Republican research firm America Rising filed a FOIA request this month seeking all emails sent by John O'Grady, a top union official at the EPA, that "mentions or refers to President Trump."

The FOIA request came in response to O'Grady's comments to The Washington Post that Trump's decision to firing then-acting Attorney General Sally Yates "sends kind of a chilling effect" through agencies. O'Grady did not respond to a request for comment.

"The public is entitled to know whether career federal government employees are engaged in partisan politics on the taxpayers' dime," said Allan Blutstein, vice president of FOIA operations at America Rising.

EPA employees said they are not using Signal for official government business, and they raised concerns that they're being targeted because they are critical of Trump.

"I don't think anybody can dictate which apps we use on our personal time, for personal conversations," one EPA employee told POLITICO.

The debate comes as employees across the government — political appointees and career officials alike — are increasingly relying on encrypted messaging apps, fearing repercussions if their private conversations are made public.

National security officials have long used encrypted mobile phone software like Signal and WhatsApp to communicate with reporters and other staffers. Signal frequently comes up in articles advising people how they can communicate free of snooping from government officials or hackers, especially following the massive leaks of stolen Democratic Party emails that roiled last year's presidential election.

Trump's appointees have gotten into the act, too: The Washington Post reported this week that administration staff members are using an app called Confide, which deletes messages once they are read, because they're afraid of being accused of leaking to the press. That's also a threat to transparency and accountability, argued Tom Fitton, president of the conservative activist group Judicial Watch, in an interview with POLITICO on Tuesday.

"If they're conducting government business via an application that destroys records, that's a problem that needs to stop," said Fitton, adding that the administration needs to either train its staff on the issue or send them a reminder. He added that the Trump administration is "asking for a lawsuit from either Judicial Watch or someone else if they don't get their act together on these records policies."

Asked if the House Science Committee will pursue a similar probe of White House staffers' use of encrypted messaging apps, spokeswoman Kristina Baum declined to make any commitments. But she said the panel "intends to continue to monitor" cyber issues.

The growing tension across the government has some career employees worried that Republicans will try to make radical changes to laws protecting federal workers — a move that could make people more fearful to speak out against Trump. Trump has already imposed a freeze on most federal hires and has promised to reduce the size of the workforce.

"Frankly, the climate has shifted rather dramatically and we've gone from a chief executive who respects civil servants to a rather bombastic, disdainful chief executive who unfortunately empowers their disparagement," Rep. Gerry Connolly (D-Va.) said in an interview.

Rep. Jason Chaffetz (R-Utah), chairman of the House Oversight Committee, is eyeing a major overhaul of the civil service system. He has discussed phasing out pensions for new government employees, instead relying on a defined-contribution plan like a 401(k), and has advocated making it easier to fire problem workers. Chaffetz reportedly talked about some of these issues during a recent meeting with Trump.

Connolly said he's concerned that the Republican Congress could win enough support to move a bill gutting civil service protections. "It is very alarming and I think frankly very destructive in terms of the fabric of a free government and a free society," he said.

In the Senate, lawmakers are also considering changes to civil service laws, but Sen. James Lankford (R-Okla.) said he is eyeing targeted tweaks that can win bipartisan support, such as efforts to improve the hiring process.

"If we can keep it small and we can keep it targeted, I think we can move it through unanimous consent," said Lankford, who chairs the Homeland Security and Governmental Affairs Committee's panel on regulatory affairs and federal management. "We need to be better at hiring. If we're better at hiring we don't have to worry about firing."

Alex Guillén and Eric Geller contributed to this story.

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From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Sent: 5/3/2017 4:08:51 PM
To: Schwab, Justin [schwab.justin@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Morning Energy: Methane CRA's fate remains unclear as time runs down — LaFleur queries New England states on market options — House subpanel tackles monument designations

The ball is rolling on methane NSPS: we've announced intention to stay

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Schwab, Justin
Sent: Tuesday, May 2, 2017 7:52 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Morning Energy: Methane CRA's fate remains unclear as time runs down — LaFleur queries New England states on market options — House subpanel tackles monument designations

Ex. 5 - Deliberative Process

Sent from my iPhone

On May 2, 2017, at 7:40 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Ex. 5 - Deliberative Process

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Tuesday, May 2, 2017 5:47 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Morning Energy: Methane CRA's fate remains unclear as time runs down — LaFleur queries New England states on market options — House subpanel tackles monument designations

By Anthony Adragna | 05/02/2017 05:43 AM EDT

With help from Jason Huffman and Annie Snider

METHANE CRA PICTURE REMAINS FUZZY: There's little more than a week left for Congress to nullify Obama-era regulations using the Congressional Review Act, but whether the Senate will be able to ax a BLM rule targeting methane emissions from oil and gas drilling on

public lands remains as hazy as ever. Sen. [John Barrasso](#) said last week he was confident his resolution to block the rule would pass, but he doesn't yet appear to have the 50 votes he needs (with Vice President Mike Pence breaking the tie) firmly locked down. Environmentalists and Senate aides hoping to defeat the resolution are eyeing four publicly undecided senators — Democrat [Heidi Heitkamp](#) and Republicans [Rob Portman](#), [Cory Gardner](#) and [Dean Heller](#). (Don't forget, Sens. [Lindsey Graham](#) and [Susan Collins](#) have already signaled their opposition, so Barrasso could only afford to lose one more vote.)

"There are a few key players who have not yet declared their intentions," Robert Dillon, vice president of communications with the American Council for Capital Formation, a big CRA backer, told ME. "The whip operation continues and we continue to encourage members to vote for the CRA." Both Gardner and Portman told ME they were undecided late Monday, and Heather Taylor-Miesle, executive director of the Ohio Environmental Council, said the grassroots continued to push Portman against the resolution: "We had 5,000 people attend a tele-townhall on the issue last week here in Ohio so we know that people are concerned and want the senator to fiercely oppose any efforts to stop the methane rule," she told ME. A spokesman for Senate Majority Leader [Mitch McConnell](#) declined to comment on the CRA's timing, though ME hears rumblings it could slip until next week.

That comes as a former top Interior official sent a letter to Senate leadership warning "repealing this rule through the CRA will impair, if not eliminate altogether, BLM's ability to promote recapture of wasted gas" without Congress stepping in with new legislation. John Leshy, who served as the agency's solicitor from 1993-2001, warned: "Using the blunt instrument of the CRA might make a nice headline, but it could also forever insulate the industry from meaningful, effective regulation on this important subject, unless the Congress could muster the political will to provide new authority in new legislation."

LET'S MAKE A DEAL? Day two of FERC's much-watched [technical conference](#) kicks off today at 9 a.m., one day after Acting FERC Chairman Cheryl LaFleur questioned whether New England grid members would be able to reach an agreement with the agency to adapt the wholesale markets to their individual power generation goals by overcoming differences between state energy policy goals, [Pro's Esther Whieldon reports](#). States appear to want FERC to help keep power plants online and offer incentives for new plants to ensure grid reliability, but don't want interference in their policy goals or to be on the hook for subsidizing other states' efforts. LaFleur noted some state officials had expressed a "lack of trust in FERC solutions."

That comes as New York state Democrats hammered Gov. Andrew Cuomo's top energy officials Monday about a nuclear subsidy for upstate plants, questioning its \$1 billion cost in the first two years, whether enough alternatives were considered and why downstate ratepayers are footing the bill, [POLITICO New York's Marie J. French reports](#).

WELCOME TO TUESDAY! I'm your host Anthony Adragna, and LCV President Gene Karpinski was the first of many to identify Chris Dudley as the NBA player-turned Republican Oregon gubernatorial nominee. For today: What former professional basketball player later chaired the House Natural Resources Committee? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](#), [@Morning_Energy](#), and [@POLITICOPro](#).

GUIDE TO FEDERAL BUDGET & APPROPRIATIONS PROCESS: The federal budget process is complicated; brush up on your knowledge so you're ready to act as the budget winds its way through Congress. [Download your guide](#).

HEARING TO TARGET 'WORST OF THE WORST' OBAMA LAND, SEA GRABS:

Ranchers, lumber companies and commercial fishing operations will all be watching closely this morning when a House Natural Resources Committee panel paints a bull's eye on what Chairman Rob Bishop's office describes as the "worst of the worst" examples of President Barack Obama's "excessive use" of the Antiquities Act to lock up more than 550 million acres of land and water with national monument designations. Among the areas to get attention: Bears Ears, in Bishop's home state of Utah; Katahdin Woods and Waters in Maine; Cascade-Siskiyou in Southern Oregon and Northern California; and Northeast Canyons and Seamounts Marine Monument off the coast of New England.

The event, which will feature four witnesses, including Maine Gov. Paul LePage, builds off President Donald Trump's executive order to have Interior review two dozen national monuments created since Jan. 1, 1996. It kicks off at 10 a.m. in Longworth 1324. Here's a background memo.

Groups oppose any rollbacks: An eclectic group of 450 organizations, ranging from the NAACP to Patagonia to the Center for American Progress, is sending a letter today to Trump, Interior Secretary Ryan Zinke and Commerce Secretary Wilbur Ross urging them to oppose "any efforts to remove or decrease protections for any national monuments." They'll present it at a 9:30 a.m. press conference held by House Natural Resources Ranking Member Raul Grijalva ahead of the hearing.

OOPS: Trump's EPA team appears to have left up the agency's climate change page in Spanish, after removing the English-language version as part of a larger overhaul announced Friday night. Link here and a screenshot if it goes away.

AND... WE'RE OFF! Speaking at a Consumer Energy Alliance event in Houston, Zinke signed a secretarial order Monday directing BOEM to start a review of the agency's five-year plan for offering oil and gas leases in federally controlled waters, Pro's Esther Whieldon reports. "We're going to look at everything," Zinke said of the review, which he said previously could take two years. He also complied with Trump's directive to review the well control rule for offshore drilling.

Ally nabs new Interior position: Zinke announced Vincent DeVito, the treasurer of his former congressional leadership PAC, would be in charge of coordinating the agency's energy policies across its nine bureaus, Esther reports. "We have to look at ourselves through to make sure we're streamlined and our regulations aren't arbitrary," Zinke said. It's a newly created position that will not require Senate confirmation.

For your radar: Zinke is delivering remarks at 9:15 a.m. at the National Tribal Energy Summit at the JW Marriott Washington.

BEACHHEAD MEMBER GETS BIGGER DOE ROLE: Daniel Simmons, a former vice president for policy at the libertarian-leaning IER, today becomes acting assistant secretary for the Office of Energy Efficiency and Renewable Energy, Pro's Darius Dixon reports. Simmons can only hold the position on a temporary basis without being nominated and confirmed by the Senate.

MAIL CALL! LET'S HATCH A PLAN, MR. PRUITT: Four Senate EPW Democrats — Tom Carper, Sheldon Whitehouse, Ed Markey and Jeff Merkley — sent a letter to EPA Administrator Scott Pruitt Monday seeking documents concerning the administrator's decision last week to pull out of an Oklahoma Republican Party gala. They also asked Pruitt to describe

what steps he'll take to comply with the Hatch Act, which aims to stop federal workers from politicking while on duty, going forward.

SCHUMER HIGHLIGHTS EPA PROTECTION IN OMNIBUS: Senate Minority Leader Chuck Schumer touted two key Democratic omnibus victories Monday: the preservation of 99 percent of EPA's budget "so their quest to keep our water and air clean will be able to continue" and the permanent extension of health benefits for coal miners. He praised West Virginia Sen. Joe Manchin as "relentless, even after disappointment after disappointment, at holding the Senate's feet to the fire and making sure this was done." Speaking of which, ME's never seen anything quite like this before: A letter from Speaker Paul Ryan praising Rep. David McKinley for his "relentless" efforts at securing the compromise.

DRINKING WATER VIOLATIONS ARE DE RIGUEUR: Roughly a quarter of all Americans are served by drinking water systems that violated federal drinking water standards in 2015, according to a report out later today from the Natural Resources Defense Council. The report, which calls for greater enforcement and investment in the drinking water sector, found nearly 80,000 violations at systems across the country, with small, rural systems accounting for more than half of those.

No cop on the beat: As last year's failure in Flint, Mich., illustrated, EPA and states are loath to penalize water systems that violate the law. The NRDC report found that nine out of 10 violations were faced no formal action, and just 3.3 percent resulted in financial penalties.

COMMENTS READY? EPA's water office will hold a 3-hour-long virtual public listening session today as it solicits suggestions for regulations to scrap, change or replace. With two weeks left until the formal comment deadline, more than 35,000 public comments have rolled in to the docket.

SEE YOU IN COURT! A group of children seeking to force the federal government to take drastic action on climate change should be allowed to make their case in court, a magistrate judge assisting with the case recommended Monday. As Pro's Alex Guillén reports, the Trump administration asked a federal district court judge in March to allow the 9th Circuit Court of Appeals to consider tossing the case before it went to trial before her. District Court Judge Ann Aiken must now decide whether to agree with Magistrate Judge Thomas Coffin's recommendation or give her blessing to the Trump administration's early appeal effort.

WORK BEGINS ON COAL ASH GUIDANCE: EPA is currently working on the needed guidance to review and approve states' coal ash permitting programs, Administrator Scott Pruitt wrote in a letter to Nevada Gov. Brian Sandoval. As Pro's Alex Guillén reports, a December water infrastructure package included a coal ash compromise that shifted permitting responsibilities to the states, which must first get EPA approval of their programs' broad contours, while the agency gained more enforcement powers and other concessions.

DID YA GET THAT MEMO? Sen. Claire McCaskill sent a letter to Energy Secretary Rick Perry seeking information about how his agency is addressing concerns raised in a GAO report about its ability to identify and prevent contracting fraud. "Oversight challenges with management of fraud risk and improper payments exist across the DOE complex," she wrote. "It is apparent that the risk is actually unknown because DOE does not adequately assess or oversee it." The Energy Department "generally concurred" with a series of the GAO recommendations, but nevertheless rated its fraud risk as "low" and disagreed with a number of the report's conclusions.

STATES RATE TOP ENVIRONMENTAL RESEARCH NEEDS: Top environmental and public health challenges for states include water quality, remediation of contaminated sites, and nutrient and nonpoint water contamination, according to [a survey of state needs](#) released Monday by the Environmental Council of the States.

RECORDS SOUGHT OF NOAA CHAT RECORDS: The Cause of Action Institute has filed a [FOIA request](#) seeking NOAA employee communications during a recent New England Fishery Management Council meeting April 18-20. "CoA Institute is concerned that NOAA may be unlawfully destroying records of these communications," the request said. That's because it appears certain Google Chat records may not have been retained. The FOIA marks the [latest attempt](#) to seek records of chat communications from federal employees.

McKIBBEN GETS ACADEMIC TREATMENT: There's now a [full-length academic paper](#) looking at the role of Bill McKibben on the U.S. climate debate. It concludes that while divestment itself achieved "little traction," previously marginalized liberal policy ideas "gained increased attention and legitimacy."

Meanwhile, the Independent Petroleum Association of America is promoting [another paper](#) that attempts to quantify the costs of divestment to students and faculty at both public and private institutions.

MOVER, SHAKER: Christopher Smith, former assistant secretary for fossil energy at DOE under President Obama, has been named Baker Institute Advisory Board Fellow in Energy Studies at Rice University's Baker Institute for Public Policy.

QUICK HITS

- 50 percent of US coal jobs are in just 25 counties. [Quartz](#).
- Britain's energy supply is in jeopardy after Brexit, warn MPs. [Guardian](#).
- Top Ethics Officer Challenges Trump Over Secret Waivers for Ex-Lobbyists. [New York Times](#).
- Unions praise McConnell for deal to fix health benefits of retired miners. [Lexington Herald-Leader](#).
- Big short position on biofuels generated profit for Icahn's refiner. [Reuters](#).
- Oil Price Optimism Wears Off as Texas Wildcatters Drill On. [Bloomberg](#).

HAPPENING TUESDAY

10:00 a.m. — "[Consequences of Executive Branch Overreach of the Antiquities Act](#)," House Natural Resources Subcommittee on Federal Lands, 1324 Longworth

10:00 a.m. — Senate Energy and Natural Resources Committee [hearing](#) on federal lands, 366 Dirksen

12:00 p.m. — "[Nuclear for the Next Generation](#)," The Nuclear Energy Institute and Partnership for Global Security, National Press Club, 529 14th St. NW

12:00 p.m. — Alston & Bird panel on pharmaceutical waste, 950 F Street NW

1:00 p.m. — "Tipping Points in Global Environmental Policy," World Resources Institute, James A. Harmon Conference Center, 10 G Street NE, Suite 800

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/tipsheets/morning-energy/2017/05/methane-crisis-fate-remains-unclear-as-time-runs-down-022622>

Stories from POLITICO Pro

FERC's LaFleur presses New England states on market options Back

By Esther Whieldon | 05/01/2017 06:15 PM EDT

Acting FERC Chairman Cheryl LaFleur Monday questioned whether the New England grid members could overcome their state policy differences and cut a deal with FERC to adapt the wholesale markets to their individual power generation goals.

Some of the ISO New England states have required their utilities to purchase renewable energy from wind farms or hydroelectric plants, and Connecticut is considering mandates to support its nuclear power plants. Those requirements have jolted the wholesale power markets — potentially forcing FERC to step in with new market rules to mitigate the price impacts, or back down and allow the state subsidies that could push some fossil fuel plants into retirement.

LaFleur noted that the state officials who were participating in Monday's discussions or sent in comments had expressed a "lack of trust in FERC solutions." While the states want the wholesale market to help keep power plants online and offer incentives for new plants to ensure grid reliability, they don't want the market to interfere with their policy goals.

"Do you think there's a way to define what the states want and price it, or do the states want by definition the ability to choose?" LaFleur said.

"There's a lot of value in having ISO run markets," said Jeffrey Bentz, director of analysis for the New England States Committee on Electricity, a group that represents the governor of the six New England states. But states are still undecided on what they want more broadly, he said. "We get that question, we have to answer it. The ball's in our court," he said.

Bentz and officials from New Hampshire and Connecticut said in addition to their wariness over FERC rule changes, cost is an issue, since they did not want their consumers to be subsidizing policy goals in other states.

"What I want is not to pay for Massachusetts' and Connecticut's policies, bluntly, so that shows you the dynamic there," said Robert Scott, a commissioner on the New Hampshire Public Utilities Commission.

"I'll agree with you there actually," said Rob Klee, a commissioner of Connecticut's Department of Energy and Environmental Protection.

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Assembly Democrats not satisfied with administration's answers on nuclear subsidy [Back](#)

By Marie J. French | 05/01/2017 05:27 PM EDT

ALBANY — Assembly Democrats hammered Gov. Andrew Cuomo's top energy officials during a hearing on Monday about a subsidy for upstate nuclear plants that took effect a month ago.

The lawmakers questioned whether the cost — about \$1 billion in the first two years — is necessary, what alternatives were considered and why downstate ratepayers are footing the bill.

Not all of those questions were satisfactorily answered, said Assemblyman Jeffrey Dinowitz, who chairs the Corporations, Authorities and Commissions Committee. Dinowitz has raised concerns about Exelon, which operates the plants, making a profit from the subsidy, as opposed to the funds being used for operational costs to keep the plants open.

He said his questions about that possibility were not answered by interim Public Service Commission chair Gregg Sayre.

"He didn't have a number," Dinowitz said. "It's a bailout. There's no debate about that, the question is how big the bailout is and we don't have the answer on that. That's what I wanted to know ... How much is going directly into the pockets of the company?"

Sayre pointed to Exelon's contention that it needed \$50 per megawatt hour to make operating the plants viable. The combined price of the zero emissions credits and expected revenues for the first two years of the subsidy is slightly lower than that — about \$48 per megawatt hour.

Dinowitz pressed the point with Sayre, asking how much would be profit.

"We don't know exactly how much is profit," Sayre said, adding as Dinowitz continued his questioning, "We don't have a dollar amount."

The subsidy helps keep open four upstate nuclear reactors, three of which were in danger of closing. It was approved in August as part of the state's Clean Energy Standard, which mandates that the state get to 50 percent renewable electricity by 2030. Ratepayers around the state began paying for the zero emissions credits, or ZECs, in April.

The subsidy has been challenged in court by competing generators and an environmental group.

As lawmakers pushed for answers Monday, Cuomo officials acknowledged the difficulty of estimating the subsidy's final price. They also said siting and cost would make replacing the nuclear plants with renewables impossible in the near-term.

Opponents of the nuclear subsidy, including a coalition of environmental and good government groups behind the "Stop the Cuomo Tax" campaign, have argued that the nuclear plants can be replaced by renewable energy in a measured way. Assembly Democrats asked whether such an alternative had been considered.

Sayre said replacing all of the upstate nuclear plants — which supply about 3,200 megawatts of electricity — with renewables would cost \$100 million more annually than the subsidy. He based that figure on a very rough estimate comparing the cost of zero emissions credits for nuclear versus renewable energy credits, or RECs. He said the cost would be even greater in the future as renewable energy credits are expected get more expensive as easier-to-site projects are completed and they get pricier.

Sayre and NYSERDA president and CEO John Rhodes said it would be nearly impossible to site that much renewable capacity in a short period.

"It would've been that much more and it would've gotten worse — had we been able to site them, which of course we couldn't have done in a few months," Sayre said.

Subsidy opponents have emphasized the \$7.6 billion cost over 12 years of the plan. The subsidy will cost \$483 million annually in the first two years and is recalculated every two years. The administration offered its own estimate of \$2.8 billion, based on forecasted increases in energy prices, in late March.

Questioned by lawmakers about the certainty of such forecasts, Sayre said it was "crazy" to try to estimate energy prices 12 years in the future.

"We don't know what it's going to cost. Nobody does," Paul Agresta, the PSC's general counsel, later said.

Lawmakers also raised concerns about whether the administration has made plans for the eventual closure of the plants after the 12-year subsidy ends and the plants come up for their license renewals.

"What is the plan?" asked Assemblywoman Pamela Hunter, a Democrat from Syracuse. "I'm talking about particulars, about decimating an actual community... what is the plan for closure so communities aren't crushed?"

Sayre said there's 12 years to plan for that transition rather than a few months as the alternative.

"Your planning contingencies should have anticipated this by many years, instead of coming up on it like a bug on the windshield," said Assemblyman Steve Englebright, who chairs the Environmental Conservation Committee.

The Assembly Democrats who called the hearing, most of them from downstate, also focused on the cost of the subsidy for ratepayers in their communities when the economic benefits of the jobs saved are all upstate. The ZECs are charged on the basis of how much each energy a ratepayer uses. Since downstate consumes more of the electricity in the state, much of the subsidy comes from downstate ratepayers.

"If we use the social cost of carbon ... but we don't factor in economic development, jobs, then the cost is going to be on downstate ratepayers," said Assemblywoman Amy Paulin, who chairs the Energy Committee.

The Cuomo administration has argued that everyone in the state benefits from the avoided carbon emissions because of the subsidy, making it fair to distribute the costs equally.

It's not clear what, if any, action the Assembly Democrats will take on the nuclear subsidy. Senate Republicans have shown no interest in thwarting the subsidies, as their members represent communities near the plants.

Assemblyman Brian Kavanagh, chair of the Consumer Affairs and Protection Committee, said the lawmakers would review information provided just minutes before the hearing and then decide.

"It's still an open question how this program goes forward," he said at the end of the hearing.

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Trump orders Interior to launch national monument reviews [Back](#)

By Esther Whieldon | 04/26/2017 11:48 AM EDT

President Donald Trump today ordered his administration to consider whether to shrink or eliminate national monuments that have placed millions of acres of federal land off limits to development.

Trump signed an executive order directing Interior Secretary Ryan Zinke to review two dozen monuments that were created since the Clinton administration. The president also asked Zinke to come up with possible legislative fixes to the 1906 Antiquities Act, which gives presidents wide latitude to establish national monuments on federal lands.

At the signing at the Interior Department, Trump said former President Barack Obama had abused the Act to implement a land grab that placed 265 million acres under the control of the federal government.

"Today we are putting the states back in charge," Trump said

Conservation groups [worry](#) Trump and Zinke could weaken the underlying law that has been a conservation tool for 16 past presidents and potentially open up sensitive areas to fossil fuel development. Legal experts say it is unclear whether Trump could fully revoke previous monument designations, but he may be able to shrink the size of protected areas. Congress would have to implement any changes to the Antiquities Act itself.

Ahead of the signing, Zinke said "somewhere along the way, the Act became the tool of political advocacy rather than public interest, and it is easy to see why some designations are viewed negatively by those most impacted."

WHAT'S NEXT: Zinke is directed to come back with an interim report within 45 days and a final report in 120 days, and any actions Trump takes as a result are likely to face legal challenges, especially if he tries to revoke previous designations.

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Zinke starts offshore leasing program review [Back](#)

By Esther Whieldon | 05/01/2017 03:52 PM EDT

Interior Secretary Ryan Zinke signed a secretarial order today directing BOEM to start a review of the agency's five-year plan for offering oil and gas leases in federally controlled waters.

The move follows President Donald Trump's Friday [executive order](#) directing the agency to launch the review of the leasing plan set in place by the Obama administration.

"We're going to look at everything," Zinke said before signing the order at a Consumer Energy Alliance event in Houston, which was streamed on Facebook.

WHAT'S NEXT: Zinke told reporters last week the review of the offshore plan could take two years to complete.

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Zinke taps political ally to coordinate Interior energy work [Back](#)

By Esther Whieldon | 05/01/2017 04:49 PM EDT

Interior Secretary Ryan Zinke today named the treasurer of his former congressional leadership PAC to a newly created position coordinating the agency's energy policies across its nine bureaus.

Vincent DeVito, a Boston-based energy lawyer, will be counselor to the secretary for energy policy, where he will be responsible for ensuring all the agencies are on the same page, Zinke said at a Consumer Energy Alliance event in Houston, which was streamed on Facebook.

Between the Fish and Wildlife Service, BOEM, BSEE, BLM "and all the different departments I have, it's confusing for me," Zinke said.

"So I just need a single point of contact. ... We have to look at ourselves through to make sure we're streamlined and our regulations aren't arbitrary," he said.

When Zinke was a member of the House, DeVito, a partner at Bowditch & Dewey, was listed as treasurer for Zinke's leadership PAC, the Supporting Electing American Leaders or SEAL PAC.

DeVito has worked on a number of energy issues, including on [pipelines](#). He represented conservation land trusts in opposing Northeast Energy Direct — a project Kinder Morgan withdrew its federal application in May 2016.

DeVito also worked in the George W. Bush administration as Department of Energy's general counsel's office and as DOE's U.S. Assistant Secretary of Energy for Policy and International Affairs.

WHAT'S NEXT: DeVito does not require Senate confirmation for his newly created position, and Zinke did not provide any indication of when President Donald Trump would nominate more senior leaders at Interior.

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DOE beachhead member lands senior EERE post [Back](#)

By Darius Dixon | 05/01/2017 05:30 PM EDT

The Institute for Energy Research's Daniel Simmons will take up a leading post at the Department of Energy as the acting assistant secretary for the Office of Energy Efficiency and Renewable Energy, the agency said in an email to staff today.

DOE said Simmons, a former vice president for policy at the libertarian-leaning IER, would take the role of principal deputy assistant secretary for the office effective today. However, without an EERE assistant secretary who has been nominated and confirmed by the Senate, Simmons can only hold the position on a temporary basis.

DOE confirmed Simmons' appointment.

Simmons was a member of President Donald Trump's transition and beachhead teams at DOE. Before joining IER, he directed the Natural Resources Task Force at the American Legislative Exchange Council.

Steven Chalk, who had served in the position for the past few months, will now return to his role as the deputy assistant secretary for operations, according to the email.

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Pruitt won't attend Oklahoma GOP fundraiser [Back](#)

By Annie Snider | 04/27/2017 09:59 AM EDT

EPA Administrator Scott Pruitt will not attend a May 5 Oklahoma GOP fundraiser because of a flier touting his appearance, he said this morning.

"We're not going to be able to attend because of the invitation that was sent out," Pruitt told Fox News Radio host Brian Kilmeade.

Pruitt noted that his attendance had been approved in advance by EPA's ethics office, but it was the flier, which used his title and promoted remarks he would make about his EPA job, that "prevented my attendance."

Sen. [Sheldon Whitehouse](#) (D-R.I.) this week alleged that Pruitt's appearance would violate the Hatch Act, the law limiting political activities by presidential appointees and other government officials, and asked the U.S. Office of Special Counsel to investigate.

In the radio interview, Pruitt was asked whether he will urge Trump to exit the Paris climate change agreement. "Without a doubt, yes," he responded.

"It's just a bad business deal, it's something we need to exit. We need to stay at the table, we need to show the leadership to the rest of the world as we already are, but Paris is ... an America last strategy as opposed to an America first strategy," he said.

After an uproar over previous comments about the role carbon emissions play in climate change, Pruitt today acknowledged that "climate change is occurring and human activity contributes to that, carbon contributes to that." But, he said, "we can't measure with precision the amount of human activity, what it contributes to that climate change."

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Let kids' climate suit go to trial, judge recommends [Back](#)

By Alex Guillén | 05/01/2017 04:21 PM EDT

A federal magistrate judge today said that a group of children seeking to force the federal government to take drastic action on climate change should be allowed to make their case in court.

The Trump administration, backed up by the oil and manufacturing industries, in March asked a judge in the U.S. District Court in Oregon to let them leapfrog her and ask the 9th Circuit Court of Appeals to toss out the case before it goes to trial.

In a 16-page [recommendation](#) today, Thomas Coffin, a magistrate judge assisting with the case, recommended that District Court Judge Ann Aiken reject the administration's request. Aiken [concluded](#) last year that there were enough questions to merit a trial.

Many of the legal questions are inextricably tied to scientific questions about climate change's causes and risks, as well as the government's past and current efforts to curb greenhouse gases or encourage fossil fuel development, Coffin wrote. A trial would allow the Trump administration and industry groups to present any evidence against climate change and its risks in a public forum, he added.

The children behind the lawsuit argue that the government has violated a public trust doctrine by knowing of climate change for decades but not doing enough to combat the threat. The Obama and Trump administrations have rejected that argument.

The Trump administration could still ask the 9th Circuit to get involved, but officials would have a much harder time if Aiken agrees with Coffin.

WHAT'S NEXT: Judge Aiken must decide whether to agree with Coffin's assessment or give her blessing to the Trump administration's early appeal effort.

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Pruitt says EPA working on plans to approve states' coal ash programs [Back](#)

By Alex Guillén | 05/01/2017 05:17 PM EDT

EPA is working on its procedures for reviewing and approving states' coal ash permitting programs, Administrator Scott Pruitt said in a Friday [letter](#).

A water infrastructure package that was signed into law in December included a bipartisan compromise on coal ash regulation that came in response to EPA's 2014 regulation on coal ash, a toxic byproduct of burning coal for electricity. The [compromise](#) shifted permitting responsibilities to the states, which must first get EPA approval of their programs' broad contours, while EPA gained more enforcement powers and other concessions.

EPA is currently working on the needed guidance for states to seek such approval, Pruitt wrote in a letter to Nevada Gov. Brian Sandoval.

"EPA has started developing guidance for states about how EPA expects to review and approve state applications to operate permit programs and allow flexibility in individual permits in lieu of the national standards," Pruitt wrote.

The topic was discussed at a recent gathering of state environmental officials, and the agency plans to go into technical detail with the Association of State and Territorial Solid Waste Management Officials, Pruitt added.

WHAT'S NEXT: EPA will develop draft guidance and may seek public input before issuing final guidance on how it will review state submissions.

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Bipartisan coal ash provision included in final WRDA [Back](#)

By Alex Guillén | 12/05/2016 04:28 PM EDT

The final version of the [Water Resources Development Act](#) released today by House and Senate negotiators includes a tweaked version of language passed earlier this year by the Senate that would change the permitting and enforcement regime for EPA's coal ash rule.

The language will require states to get EPA approval for their coal ash disposal permitting plans, and the agency will also gain more enforcement powers, on top of potential citizen lawsuits.

"This new permitting authority fixes the main problems with the recent coal ash regulation issued by the Environmental Protection Agency, by removing citizen suits as the sole means of enforcement and allowing states to tailor permit requirements on a case-by-case basis," Sens. [Jim Inhofe](#), [Joe Manchin](#), [Shelley Moore Capito](#) and [John Hoeven](#) said in a joint statement.

The provision won bipartisan backing, although various environmental groups, including the Sierra Club, Environmental Integrity Project and the Waterkeeper Alliance, raised issues with the language.

The new language would also extend EPA's timeline to review authorized state programs from every five years to every 12 years. And it gives EPA more time to review state programs, includes language allowing states to ask EPA to review a neighboring state's program, and requires EPA to operate a backstop permit program for states without authorized programs.

The bill is expected to hit the House floor this week.

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Conservatives demanding details on federal workers' encryption use [Back](#)

By Andrew Restuccia | 02/14/2017 03:00 PM EDT

Republicans in Congress and their conservative allies are demanding details about federal workers' use of encrypted messaging apps, part of a broader counterattack on employees suspected of opposing President Donald Trump's agenda.

Congressional Republicans are also pondering changes to longstanding laws that protect government workers, further stoking fears among some federal employees that the new administration's supporters are out to squash dissent.

Republicans on the House Science Committee took up the cause on Tuesday by asking EPA's inspector general to review reports that agency employees are using an app called Signal, which allows people to exchange encrypted text messages and phone calls. POLITICO reported this month that a group of fewer than a dozen EPA employees were using the app to discuss what they would do if Trump's political appointees flout the law or delete valuable scientific data.

The anti-Trump resistance has infuriated Republicans, who fear that dissenters in the government could undercut the president's policy proposals by unleashing even more embarrassing leaks. They also contend that the use of encrypted messaging circumvents federal record-keeping laws — an argument Science Chairman Lamar Smith (R-Texas) echoed in Tuesday's letter.

"[T]he Committee is concerned that these encrypted and off-the-record communication practices, if true, run afoul of federal record-keeping requirements, leaving information that could be responsive to future Freedom of Information Act (FOIA) and congressional requests unattainable," wrote Smith, who organized the letter to the IG. The panel has jurisdiction over many cybersecurity issues.

Outside conservative groups have launched similar efforts.

Citing POLITICO's story, the Cause of Action Institute, a right-leaning watchdog group, filed a request under the Freedom of Information Act this month seeking EPA employees' communications using Signal. "The bottom line is: An encrypted app is basically a way to avoid transparency," Institute Assistant Vice President Henry Kerner said in an interview.

It's not just encryption that is raising eyebrows. Republican research firm America Rising filed a FOIA request this month seeking all emails sent by John O'Grady, a top union official at the EPA, that "mentions or refers to President Trump."

The FOIA request came in response to O'Grady's comments to The Washington Post that Trump's decision to firing then-acting Attorney General Sally Yates "sends kind of a chilling effect" through agencies. O'Grady did not respond to a request for comment.

"The public is entitled to know whether career federal government employees are engaged in partisan politics on the taxpayers' dime," said Allan Blutstein, vice president of FOIA operations at America Rising.

EPA employees said they are not using Signal for official government business, and they raised concerns that they're being targeted because they are critical of Trump.

"I don't think anybody can dictate which apps we use on our personal time, for personal conversations," one EPA employee told POLITICO.

The debate comes as employees across the government — political appointees and career officials alike — are increasingly relying on encrypted messaging apps, fearing repercussions if their private conversations are made public.

National security officials have long used encrypted mobile phone software like Signal and WhatsApp to communicate with reporters and other staffers. Signal frequently comes up in

articles advising people how they can communicate free of snooping from government officials or hackers, especially following the massive leaks of stolen Democratic Party emails that roiled last year's presidential election.

Trump's appointees have gotten into the act, too: The Washington Post reported this week that administration staff members are using an app called Confide, which deletes messages once they are read, because they're afraid of being accused of leaking to the press. That's also a threat to transparency and accountability, argued Tom Fitton, president of the conservative activist group Judicial Watch, in an interview with POLITICO on Tuesday.

"If they're conducting government business via an application that destroys records, that's a problem that needs to stop," said Fitton, adding that the administration needs to either train its staff on the issue or send them a reminder. He added that the Trump administration is "asking for a lawsuit from either Judicial Watch or someone else if they don't get their act together on these records policies."

Asked if the House Science Committee will pursue a similar probe of White House staffers' use of encrypted messaging apps, spokeswoman Kristina Baum declined to make any commitments. But she said the panel "intends to continue to monitor" cyber issues.

The growing tension across the government has some career employees worried that Republicans will try to make radical changes to laws protecting federal workers — a move that could make people more fearful to speak out against Trump. Trump has already imposed a freeze on most federal hires and has promised to reduce the size of the workforce.

"Frankly, the climate has shifted rather dramatically and we've gone from a chief executive who respects civil servants to a rather bombastic, disdainful chief executive who unfortunately empowers their disparagement," Rep. Gerry Connolly (D-Va.) said in an interview.

Rep. Jason Chaffetz (R-Utah), chairman of the House Oversight Committee, is eyeing a major overhaul of the civil service system. He has discussed phasing out pensions for new government employees, instead relying on a defined-contribution plan like a 401(k), and has advocated making it easier to fire problem workers. Chaffetz reportedly talked about some of these issues during a recent meeting with Trump.

Connolly said he's concerned that the Republican Congress could win enough support to move a bill gutting civil service protections. "It is very alarming and I think frankly very destructive in terms of the fabric of a free government and a free society," he said.

In the Senate, lawmakers are also considering changes to civil service laws, but Sen. James Lankford (R-Okla.) said he is eyeing targeted tweaks that can win bipartisan support, such as efforts to improve the hiring process.

"If we can keep it small and we can keep it targeted, I think we can move it through unanimous consent," said Lankford, who chairs the Homeland Security and Governmental Affairs Committee's panel on regulatory affairs and federal management. "We need to be better at hiring. If we're better at hiring we don't have to worry about firing."

Alex Guillén and Eric Geller contributed to this story.

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EPA Has Responded to Senate Committee Requests, Undermining Democrat's Claim

Elizabeth Harrington 6/9/17

The Environmental Protection Agency has responded to half of a Senate oversight committee's information requests, undermining a top Democrat's claim that he is blocking nominees because the agency has not answered his letters.

Sen. Tom Carper (D., Del.), the leading Democrat on the Senate Environment and Public Works Committee, said he is opposing Susan Bodine, President Donald Trump's nominee for assistant administrator for enforcement and compliance assurance, despite her impressive resume.

"Certainly, Ms. Bodine's resume is helpful," Carper said in a statement Wednesday. "With over a decade of experience in the House and Senate and time spent working in the Bush Administration, I believe she understands the relationship that should exist between the separate, but equal branches of our government. Ms. Bodine has also served as counsel to two chairmen of this committee, both of whom have taken their oversight roles very seriously."

Carper said he raised his "serious concerns" with Bodine on the lack of responses from the EPA from his committee. "Specifically, I noted the multiple letters from EPW members that have still received no response, including an inquiry on EPA's enforcement activities," Carper said. That letter was sent less than three weeks ago, and Carper asked for a response by June 23.

"I do not believe her Senate bosses would stand for such blatant disregard from an agency, and Democratic members will not either," Carper said.

Carper added that he could not support Bodine, or any other Trump EPA nominee, until he receives responses to his letters.

"Until members of this committee receive adequate responses from Mr. Pruitt so that we can all exercise our oversight responsibilities, I feel I have no choice but to oppose the consideration of any additional EPA nominees," he said. "I stand ready to work with Chairman Barrasso to resolve this issue as soon as possible, ideally before Ms. Bodine's rescheduled confirmation hearing next week."

The EPA pushed back against Carper's claim, providing the Washington Free Beacon with a record of the letters processed since Pruitt was confirmed.

"We've received 20 letters from Senator Carper and 10 have already received a detailed response," said Jahan Wilcox, an EPA spokesman. "Of the remaining 10 letters: Seven were received in the past month and we are working to respond as quickly as possible."

"EPA staff is committed to being responsive to Congress," Wilcox said.

Requests submitted by the committee included an inquiry about a Politico article suggesting the EPA is considering hiring private lawyers to rewrite the Obama administration's Waters of the United States regulation. The EPA sent its response on May 17.

Other requests that have been fulfilled included documents related to Pruitt's decision to not attend the Oklahoma GOP fundraising gala. The response was delivered June 1.

Another response, dealing with documents about Pruitt's ethics agreement, was fulfilled in three days. The committee sent a letter on May 2 regarding Pruitt's lawsuit seeking to overturn the EPA's 2015 National Ambient Air Quality Standards (NAAQS) for Ozone while he was attorney general of Oklahoma. The EPA sent a final response on May 5.

An additional response to a Senate inquiry will be mailed on Friday.

Bodine has received bipartisan support. Scott Fulton, an EPA general counsel under the Obama administration, endorsed Bodine.

"During the Obama administration, when I served as EPA's general counsel, Susan and I worked collaboratively on matters of shared concern to the administration and the Congress," said Fulton, who is now president of the Environmental Law Institute. "Through these various intersections, I have found Susan to be fair minded, clear thinking, and strategic in her approach, as well as effective in her leadership. She has a deep understanding of EPA and the EPA-State relationship, which will equip her well to lead [the Office of Enforcement and Compliance Assurance] OECA."

Bodine is "deeply familiar with EPA, having led the agency's solid waste office during the George W. Bush administration," according to Environment & Energy Publishing.

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